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P

SESSIONAL PAPERS

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FOURTH SESSION OF THE THIRTEENTH PARLIAMENT

OF THE

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ALPHABETICAL INDEX

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OF THE

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8. Report of the Superintendent of Insurance of the Dominion of Canada for the year ended December 31, 1918. Volume I, Insurance Companies other than Life; Volume II, Life Insurance Companies. Presented by Sir Henry Drayton, March 2, 1920.....*Printed for distribution and sessional papers.*

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11. Annual Report of the Department of Customs and Inland Revenue, containing accounts of revenue with statements relative to the Imports, Exports, Customs and Inland Revenue of the Dominion of Canada, for the fiscal year ended March 31, 1919, as compiled from official returns. Presented by Hon. Mr. Burrell, March 4, 1920. *Printed for distribution and sessional papers.*

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14. Report of the Work of the Department of Soldiers' Civil Re-establishment, December, 1919 Presented by Mr Clark (Bruce), March 15, 1920 *Printed for distribution and sessional papers*

15. Report of the Minister of Agriculture for the Dominion of Canada, for the year ended March 31, 1919 Presented by Hon Mr Tolmie, March 9, 1920 *Printed for distribution and sessional papers*

15a Report on "The Agricultural Instruction Act," 1918-19, pursuant to Section 5, Chapter 5 of 3-4 George V Presented by Hon. Mr Tolmie, March 9, 1920 *Printed for distribution and sessional papers*

15b. Report of the Veterinary Director General, year ending March 31, 1919. *Printed for distribution and sessional papers*

16. Report of the Dominion Experimental Farms for the fiscal year ending 31st March, 1919. Appendix to the Report of the Minister of Agriculture. Presented by Hon. Mr. Tolmie, March 9, 1920. *Printed for distribution and sessional papers*

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17c. Census of Industry—Pulp and Paper.....*Printed for distribution and sessional papers.*

18. Annual Report of the Department of Immigration and Colonization, for the fiscal year ended March 31, 1919 Presented by Hon. Mr. Calder, March 3, 1920.....*Presented for distribution and sessional papers*

19. Report of the Minister of Public Works on the works under his control for the fiscal year ended March 31, 1919 Presented by Hon. Mr. Reid, March 10, 1920..... *Printed for distribution and sessional papers*

20. Annual Report of the Department of Railways and Canals, for the fiscal year from April 1, 1918, to March 31, 1919 Presented by Hon. Mr. Reid, May 20, 1920.....*Printed for distribution and sessional papers*

20a Canal Statistics for the season of navigation of 1919 *Printed for distribution and sessional papers*

20b. Railway Statistics of the Dominion of Canada year of 1919 *Printed for distribution and sessional papers*

20c. Fourteenth Report of the Board of Railway Commissioners for Canada, for the year ending March 31, 1919 Presented by Hon Mr Reid, March 19, 1920 *Printed for distribution and sessional papers*

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20d. Fifteenth Report of the Board of Railway Commissioners for Canada, for the nine months ending December 31, 1919. (Manuscript copy.) Presented by Hon Mr Reid, April 19, 1920

21. Fifty-second Annual Report of the Department of Marine and Fisheries, for the year 1918-19 Marine. Presented by Hon Mr Ballantyne, March 1, 1920 *Printed for distribution and sessional papers.*

22. Marine and Fisheries -List of Vessels, year 1919 *Printed for distribution and sessional papers*

23. Supplement to the Fifty-second Annual Report of the Department of Marine and Fisheries for the fiscal year 1918-1919 (Marine)—Steamboat Inspection Report Presented by Hon Mr. Ballantyne, March 1, 1920 *Printed for distribution and sessional papers*

24. Report of the Postmaster General for the year ended March 31, 1919. Presented by Hon Mr. Rowell, March 2, 1920 *Printed for distribution and sessional papers*

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25. Annual Report of the Department of the Interior, for the fiscal year ended March 31, 1919 Presented by Hon Mr Meighen, March 10, 1920.....*Printed for distribution and sessional papers.*

25a. Report of the Topographical Surveys Branch of the Department of the Interior, year 1918-1919. *Printed for distribution and sessional papers.*

25b. Sixteenth Report of the Geographic Board of Canada, containing all decisions from April 1, 1917, to March 31, 1919 Presented by Hon. Mr. Meighen, April 28, 1920.....*Printed for distribution and sessional papers.*

26. Report of the Geological Survey Branch, Department of Mines, year 1919 *Printed for distribution and sessional papers*

26a. Summary Report of the Mines Branch of the Department of Mines, for the year ending December 31, 1919. *Printed for distribution and sessional papers.*

27. Report of the Department of Indian Affairs for the year ended March 31, 1919. Presented by Hon. Mr Meighen March 16, 1920.....*Printed for distribution and sessional papers.*

28. Report of the Royal Northwest Mounted Police for the year ended September 30, 1919. Presented by Hon Mr Rowell, March 22, 1920 *Printed for distribution and sessional papers*

29. Report of the Secretary of State of Canada for the year ended March 31, 1919. Presented by Hon Mr Sifton, March 10, 1920 *Printed for distribution and sessional papers*

CONTENTS OF VOLUME 9.

(This volume is bound in two parts.)

30. (Sessional Paper No 18, 6-7 Edward VII, Rev. Ed.) Second Annual Report of the Historical Documents Publication Board, together with accompanying printed volumes, being the second edition, revised and enlarged, of the first volume of the Constitutional Documents relating to Canada 1759-1791, now issued in two parts Presented by Hon Mr Rowell, March 18, 1920. *Printed for distribution and sessional papers.*

CONTENTS OF VOLUME 10.

32. Eleventh Annual Report of the Civil Service Commission of Canada, September 1, 1918–December 31, 1919. Presented by Hon. Mr. Sifton, April 16, 1920 . . . . . *Printed for distribution and sessional papers.*

33. Annual Report of the Department of Public Printing and Stationery for the fiscal year ended March 31, 1919. Presented by Hon. Mr. Sifton, June 8, 1920 ..... *Printed for distribution and sessional papers.*

34. Report of the Secretary of State for External Affairs, for the year ended March 31, 1919 Presented by Hon. Mr. Rowell, April 22, 1920 ..... *Printed for distribution and sessional papers.*

35. Report of the Minister of Justice as to Penitentiaries for year ending March 31, 1919. *Printed for distribution and sessional papers.*

36. Report of the Militia Council for the Dominion of Canada, for the fiscal year ending March 31, 1919. Presented by Hon. Mr. Guthrie, May 28, 1920 ..... *Printed for distribution and sessional papers.*

37. Report of the Department of Labour for the year ended March 31, 1919. The Senate. *Printed for distribution and sessional papers.*

38. Annual Report of the Editorial Committee for the year 1920. Presented 1920. *Printed for distribution and sessional papers.*

39. Report of the Department of the Naval Service, for the fiscal year ending March 31, 1919. Presented by Hon. Mr. Ballantyne, March 1, 1920 . . *Printed for distribution and sessional papers.*

40. Fifty-second Annual Report of the Fisheries Branch of the Department of the Naval Service, 1918. Presented by Hon. Mr. Ballantyne, March 11, 1920 *Printed for distribution and sessional papers.*

1. Report of the Joint Librarians of Parliament. Presented by Hon. Mr. Speaker, February 26, 1920 *Not printed.*

42. Copy of the Treaty of Peace between the Allied and Associated Powers and Bulgaria, signed at Neuilly sur Seine on the 27th day of November, 1919. Presented by Hon. Mr. Rowell, February 26, 1920. *Printed for distribution to senators and members.*

42*a*. The Czecho-Slovak Minorities Treaty.—Treaty between the Principal Allied and Associated Powers and Czecho Slovakia, signed at Saint-Germain-en-Laye, September 10, 1919. Ratification on behalf of Canada authorized by Order in Council of December 1, 1919. Presented by Hon. Mr. Rowell, March 1, 1920. *Not printed.*

42*b*. The Serb-Croat-Slovene Minorities Treaty.—Treaty between the Principal Allied and Associated Powers and the Serb-Croat-Slovene State, signed at Saint-Germain-en-Laye, September 10, 1919. Ratification on behalf of Canada authorized by Order in Council of December 1, 1919. Presented by Hon. Mr. Rowell, March 1, 1920. *Not printed.*

42*c*. Arms Traffic Convention—Convention for the control of the trade in arms and ammunition, and Protocol, signed September 10, 1919 Ratification on behalf of Canada authorized by Order in Council of December 9, 1919. Presented by Hon. Mr. Rowell, March 1, 1920 ..... *Not printed.*

42*d*. Liquor Traffic Convention—Convention relating to the liquor traffic in Africa, and Protocol, signed at Saint-Germain-en-Laye, September 10, 1919. Ratification on behalf of Canada authorized by Order in Council of December 1919. Presented by Hon. Mr. Rowell, March 1, 1920 ..... *Not printed.*

42*e*. Berlin and Brussels Acts Convention—Convention revising the General Act of Berlin, February 26, 1885, and the General Act and Declaration of Brussels, July 2, 1890, signed at Saint-Germain-en-Laye, September 10, 1919. Ratification on behalf of Canada authorized by Order in Council of December 9, 1919. Presented by Hon. Mr. Rowell, March 1, 1920 . . . . . *Not printed.*

42*f*. Return to an Address to His Excellency the Administrator, of the 22nd March, 1920, for a copy of the Orders in Council of December 1, 1919, and December 9, 1919, respecting ratification of the treaties and conventions laid before the House of Commons on Monday, March 1, 1920 Presented March 29, 1920, Mr. Fielding *Not printed.*

42*g*. Copy of the English text of the Treaty between the Principal Allied and Associated Powers and Rumania, signed at Paris, December 9, 1919. Presented by Hon. Mr. Rowell, April 14, 1920 ..... *Not printed.*

42*h*. Copy of the agreement of September 10, 1919, between the Allied and Associated Powers with regard to the contributions to the cost of liberation of the territories of the former Austro-Hungarian monarchy, and copy of Declaration dated the 8th of December, 1919, modifying this Agreement. Presented by Hon. Mr. Rowell, April 21, 1920 . . *Not printed.*

42*i*. Copy of Agreement of September 10, 1919, between the Allied and Associated Powers and Italy with regard to the Italian reparation payments and copy of Declaration of December 8, 1919, modifying this Agreement. Presented by Hon. Mr. Rowell, April 21, 1920 . . . . *Not printed.*

43. Order in Council, P.C. 69, dated February 28, 1920, Payment of Command Money to Captain Superintendents H.M.C. Dockyards. Presented by Hon. Mr. Ballantyne, March 1, 1920 ..... *Not printed.*

43*a*. Copy of Order in Council, P.C. 566, dated March 17, 1920: Cancellation of Orders in Council authorizing and governing the payment of Separation Allowance to dependents of Officers and Men in the Canadian Naval Service Presented by Hon. Mr. Ballantyne, March 22, 1920 ..... *Not printed.*

43*b*. Order in Council, P.C. 559, dated 17th March, 1920: Naval Forces of Canada, including the Naval Volunteer Forces, placed on a peace footing. Presented by Hon. Mr. Ballantyne, March 25, 1920 ..... *Not printed.*

43*c*. Copy of Order in Council P.C. 1061, dated 15th May, 1920: Payment of Gratuity to Ratings and Warrant Officers of the Royal Canadian Navy. Presented by Hon. Mr. Ballantyne, May 21, 1920 ..... *Not printed*

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43*d*. Copy of Order in Council, P.C. 1005, dated 20th May, 1920; Engagement of Seamen in Royal Canadian Navy. Presented May 31, 1920. Mr. Hocken. *Not printed.*

43*e*. Order in Council, No. P.C. 1155, dated May 22, 1920, —Amendments to Rates of Pay for Surgeon Lieutenants, Royal Canadian Navy. (Sessional Papers, 1920, No.). The Senate. *Not printed.*

44. Amendments to Radiotelegraph Regulations, Nos. 78, 25 and 104. Presented by Hon. Mr. Ballantyne, March 1, 1920. *Not printed.*

44*a*. Amendment to Radiotelegraph Regulation No. 92. Presented by Hon. Mr. Ballantyne, March 15, 1920. *Not printed.*

45. Copy of the International Opium Convention, signed at The Hague, January 23, 1912, and ratified January 10, 1920. Presented by Hon. Mr. Rowell, March 2, 1920. *Not printed.*

46. Copy of an Agreement between His Majesty the King and the Grand Trunk Railway Company of Canada. Presented by Hon. Mr. Reid, March 2, 1920. *Not printed.*

47. Copy of Order in Council, P.C. 2596, dated 31st December, 1919. Air Regulations, 1920. Presented by Hon. Mr. Sifton, March 2, 1920. *Not printed.*

47*a*. Report of the Air Board, for the fiscal year ending March 31, 1920. Presented by Hon. Mr. Sifton, April 20, 1920. *Not printed.*

47*b*. Copy of Order in Council, P.C. 826, dated 19th April, 1920, respecting the reorganization of the Air Board. Presented by Hon. Mr. Sifton, April 20, 1920. *Not printed.*

48. Copy of correspondence in respect to the resignation of the Chief Commissioner of the Board of Commerce. Presented by Sir George Foster, March 2, 1920. *Not printed.*

48*a*. Copy of correspondence relating to the resignation of Judge Robson as Chairman of the Board of Commerce of Canada. Presented by Sir Robert Borden, June 26, 1920. *Not printed.*

49. Statement supplementary to that of 13th September, 1919, of Superannuation and Retiring Allowances in the Civil Service between the said date and the 31st December, 1919, showing name, rank, salary, service allowance and cause of retirement of each person superannuated or retired, also whether the vacancy has been filled by promotion, or by appointment, and the salary of any new appointee. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

49*a*. Return to an Order of the House of the 22nd March, 1920, for a Return showing the cases in which, from October 1, 1896, to the present, in the computation of superannuation allowances to retiring officials, additional years were allowed under the provisions of Section 12, of Chapter 7, R.S., the dates of the granting of the allowances, the names of the officials and the number of years added to the actual service; along with a copy of all Treasury Board Reports and Orders in Council relating to such cases. Presented March 31, 1920, Mr. Fielding. *Not printed.*

50. Statement in pursuance of Section 17 of the Civil Service Insurance Act, for the year ending March 31, 1919. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

51. Statement of Governor General's Warrants issued since the last Session of Parliament on account of 1919-20. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

52. Statement of Expenditure on account of "Miscellaneous Unforeseen Expenses," from the 1st September, 1919, to the 1st March, 1920, in accordance with the Appropriation Act Number (1), 1919. Presented by Sir Henry Drayton, March 20, 1920. *Not printed.*

53. Statement of Temporary Loans issued by the Government of Canada since the last Session of Parliament still outstanding. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

54. Statement of Receipts and Expenditures of the National Battlefields Commission to 31st March, 1919. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

54*a*. Statement of Receipts and Expenditures of the National Battlefields Commission to 31st March, 1920. Presented by Sir Henry Drayton, April 19, 1920. *Not printed.*

55. Report of the Ottawa Improvement Commission for the fiscal year ended March 31, 1919. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

56. Statement of the Receipts and Expenditures of the Royal Society of Canada, for the year ended April 30, 1919. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

57. Financial Statement of the affairs of the Montreal Turnpike Trust for the year ended December 31, 1919. Presented by Sir Henry Drayton, March 2, 1920. *Not printed.*

58. Copy of General Rules and Orders of the Exchequer Court of Canada, in accordance with the provisions of Section 88 of the Exchequer Court Act, Chapter 140, R.S.C. 1906. Presented by Hon. Mr. Sifton, March 10, 1920. *Not printed.*

58*a*. Copy of General Rules and Orders of the Exchequer Court of Canada, in accordance with the provisions of Section 88 of the Exchequer Court Act, Chapter 140, R.S.C. 1906. Presented by Hon. Mr. Sifton, April 14, 1920. *Not printed.*

59. Copy of the Rules of the Supreme Court of Nova Scotia enacted under the provisions of the Controverted Elections Act, Chapter 7, R.S.C. 1906, in accordance with the requirements of Section 85 of the Act. Presented by Hon. Mr. Sifton, March 10, 1920. *Not printed.*

Copy of the Crown Rules of the Judges of the Supreme Court of Nova Scotia in accordance with the provisions of Section 576, subsection 2, of the Criminal Code. Presented by Hon. Mr. Sifton, April 16, 1920. *Not printed.*

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60. Return showing the number of permits granted to take intoxicants into the Northwest Territories, for the year ending the 31st of December, 1919, in accordance with the provisions of the Revised Statutes, Chapter 62, Section 88. Presented March 10, 1920 ..... *Not printed.*

61. Report of Admiral of the Fleet, Viscount Jellicoe of Scapa, G.C.B., O.M., G.C.V.O., on Naval Mission to the Dominion of Canada (November-December, 1919). Presented by Hon. Mr. Ballantyne, March 10, 1920. *Printed for distribution to Senators and Members only.*

62. Return showing:—1. Number of postmasters in the County of Charlevoix-Montmorency. 2. Their names. 3. Their residence. 4. When they were appointed. 5. Their actual salary. 6. Whether it was ever increased since they were appointed. 7. If not, why. 8. If so, when, and to what extent. Presented March 10, 1920, Mr. Casgrain. *Not printed.*

63. Order of the House for a Return showing:—1. Number of mail carriers in the County of Charlevoix-Montmorency. 2. Their names. 3. Their residence. 4. When they were appointed. 5. Their actual salary. 6. Whether it was ever increased since they were appointed. 7. If not, why. 8. If so, when, and to what extent. Presented March 10, 1920, Mr. Casgrain. ..... *Not printed.*

64. Return to an Order of the Senate, dated September 30, 1919, for a statement giving weights and values of the exportation from Canada during the fiscal years of 1916-17-18-19 of mixed fertilizers, also of Sulphate of Ammonia, Nitrate of Soda, Ammoniates, Phosphate Rock, Super Phosphates, Kanite of Potash Salts, Chloride of Potash and Crude Sulphate of Potash, and of any miscellaneous chemicals as are used in the manufacture of artificial fertilizers also Basic Slag from the Provinces of Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, by each province, and where exported to as shown by clearances of the various Custom Houses. The Senate. *Not printed.*

65. Return to an humble Address of the Senate to His Excellency the Governor General, dated May 8, 1919, showing the date and object of all commissions appointed by the Government since its accession to power in 1911, up to the present date; the number of days during which each of the said commissions sat; the names of the persons composing the said commissions and the cost of each of these commissions to the country. The Senate. *Not printed.*

65*a*. Return to an Order of the Senate, dated September 5, 1919, showing:—The number of commissions appointed since 1912, their object, the names of their members and their salaries, the total cost of each commission and those which are still existing. The Senate. ..... *Not printed.*

65*b*. Return to an Order of the House of the 30th April, 1919, for a Return showing: 1. The number of commissons appointed by the Government since the year 1914, to date, and the purpose for which each was appointed. 2. The number of members on each of said commissions, and their names. Presented March 18, 1920. Mr. Prevost. *Not printed.*

65*c*. Return to an Order of the House of the 19th June, 1919, for a Return showing:—1. How many commissions have been appointed by the Governor in Council and by Parliament since the year 1911. 2. The names of the various commissions and the names of the members of the said commissions. 3. The amount of salary and travelling expenses paid to each commission and the sum drawn by each commissioner. Presented March 18, 1920. Mr. Michaud. *Printed for distribution to Senators and Members only.*

66. Copy of Report of the Royal Commission on Indian Affairs for the Province of British Columbia. Presented by Sir George Foster, March 11, 1920. ..... *Not printed.*

67. Report of the Royal Commission appointed to inquire into and concerning the conditions pertaining to running race meets and betting in connection therewith, in Canada. Also copy of the evidence taken before the Royal Commission appointed to inquire into and concerning the conditions pertaining to running race meets and betting in connection therewith, in Canada. Presented by Sir George Foster, March 16, 1920. *Printed for Members and Senators only.*

68. Return to an Address to His Excellency the Governor General of the 19th March, 1919, for a copy of the Order in Council appointing the Board of Grain Supervisors for Canada. Presented March 12, 1920. Mr. Stevens. *Not printed.*

69. Detailed Statement of Bonds or Securities registered in the Department of the Secretary of State since February 26, 1919. The Senate. *Not printed.*

70. Return to an Order of the House showing:—1. How many Acting Ministers have been named or appointed since December 17, 1917. 2. Their names and in what Department they have administered as Acting Minister. 3. On what date each Minister was so appointed. Presented March 15, 1920. Mr. Tobin. ..... *Not printed.*

71. Copy of correspondence relating to the resignation of Hon. A. K. Maclean, and Hon. S. C. Mewburn, Minister of Militia and Defence, as Members of the Government of Canada. Presented by Sir George Foster, March 15, 1920. *Not printed.*

72. "The Forest Reserves and Parks Act." Presented by Hon. Mr. Meighen, March 16, 1920. *Not printed.*

73. Return of Orders in Council which have been published in the *Canada Gazette* and in the British Columbia *Gazette*, between 1st August, 1919, and the 5th February, 1920, in accordance with provisions of Sub-section 2 of Section 38 of the regulations for the survey, administration, disposal and management of Dominion Lands within the 40-mile Railway Belt in the Province of British Columbia. Presented by Hon. Mr. Meighen, March 16, 1920. *Not printed.*

74. Return of Orders in Council which have been published in the *Canada Gazette*, between the 1st August, 1919, and the 5th February, 1920, in accordance with the provisions of Section 5 of "The Dominion Lands Survey Act," Chapter 21, 7-8 Edward VII. Presented by Hon. Mr. Meighen, March 16, 1920. ..... *Not printed.*

75. Return to Orders in Council which have been published in the *Canada Gazette*, between 1st August, 1919, and the 5th February, 1920, in accordance with the provisions of Section 77 of "The Dominion Lands Act," Chapter 20, 7-8 Edward VII. Presented by Hon. Mr. Meighen, March 16, 1920 ..... *Not printed.*

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76. Copy of Order in Council, P.C. 198, dated 29th day of January, 1920—Defining the standard of Canadian silver coinage Presented by Sir Henry Drayton, March 16, 1920 . *Not printed.*

77. Return to an Order of the House of the 8th October, 1919, for a copy of the correspondence exchanged between the firm of Becker and Company, Ltd., London, England, and the High Commissioner of Canada in London, concerning a certain circular issued by the Canadian Mission. Presented by Sir George Foster, March 17, 1920. *Not printed.*

78. Copies of Orders in Council, P.C. 1445, dated 17th July, 1919; P.C. 1955, dated 18th September, 1919; and P.C. 2562, dated 24th December, 1919, together with copy of letter addressed to the Chairman of the Canadian Section of the International Joint Commission, dated 21st January, 1920, relating to the development and use of the waters of the St. Lawrence river forming the boundaries between the United States and Canada. Presented by Hon. Mr. Rowell, March 18, 1920 . . . . . *Not printed.*

79. Return to an Order of the House of the 12th May, 1919, for a copy of all reports, letters, memoranda, telegrams, plans and estimates in connection with the construction of a bridge over the river Batiscan, in the parish of St. François-Xavier de Batiscan, Champlain County. Presented March 18, 1920. Mr. Deslauriers . *Not printed.*

79a. Return to an Order of the House of the 12th April, 1920, for a copy of all reports, letters, memos, correspondence, plans and specifications relative to the construction of a bridge on the Batiscan river, in the parish of St. François-Xavier of Batiscan, in the County of Champlain. Presented by Hon. Mr. Reid, April 26, 1920 *Not printed.*

80. Return to an Order of the House of the 29th September, 1919, for a copy of all letters, plans and contracts between the Government or the Commission of the Transcontinental and the Canadian Pacific Railway Company, concerning (a) the construction, by this Company, of a railway station at "The Palais" in the City of Quebec; (b) the conditions of exploitations of the said station by the Transcontinental Railway Company or by the National Railways, and also any Orders in Council in this connection. Presented March 18, 1920. Mr. *Not printed.*

81. Return to an Order of the House of the 29th September, 1919, for a copy of all correspondence and other papers and documents in the possession of the Government or of the Civil Service Commission relating to the appointment of a Harbour Master for the Port of Canso, N.S. Presented March 18, 1920. Mr. Sinclair (Antigonish). *Not printed.*

82. Return to an Order of the House of the 29th September, 1919, for a copy of all correspondence relating to the dismissal of James Conner from the dual positions which he held at Snowflake, Manitoba, under the Department of Customs, and Immigration and Colonization. Presented March 18, 1920. Mr. Richardson.....*Not printed.*

83. Detailed Statement of Remissions of Customs Duties and the Refund thereof, under Section 92, Consolidated Revenue and Audit Act, through the Department of Customs, for the fiscal year ended 31st March, 1918. Presented by Hon. Mr. Sifton March 18, 1920.....*Not printed.*

84. Return to an Order of the House of the 29th September, 1919, for a copy of all documents, letters and plans, exchanged between the Government and any person, commission or company concerning the construction, in the City of Quebec, or in the suburbs, of a tunnel to facilitate the entrance of the Transcontinental or of any other company in the said city. Presented March 18, 1920. Mr. Parent.....*Not printed.*

85. Return to an Order of the House of the 22nd September, 1919, for a Return showing the total number of persons of both sexes now employed by the Federal Government of the Dominion of Canada. Presented March 18, 1920. Mr. Tobin .....*Not printed.*

86. Return to an Order of the House of the 10th March, 1920, for a copy of the contract between the Government of Canada or the Canadian Wheat Board and Greece, for 12,000,000 bushels of wheat. Presented March 18, 1920. Mr. Archambault . *Not printed.*

87. Return to an Order of the House of the 10th November, 1919, for a copy of all correspondence, telegrams and other documents exchanged between the Federal Government and the Government of New Brunswick with regard to the transfer of wharves on the St. John river and tributary waters, including a copy of all correspondence regarding the liability of the Dominion Government in maintaining and repairing these wharves And Return to an Order of the House of the 10th November, 1919, for a copy of all reports and recommendations made by the officers of the Department of Public Works during the years 1918-1919, on the condition of the wharves in the St. John river and tributary waters, and the repairs required thereto Presented March 18, 1920. Mr McLean (Royal).....*Not printed.*

88. Return to an Order of the House of the 29th September, 1919, for a copy of all documents, letters and plans passed between the Government and the City of Quebec or any other corporation or construction and transport company or any other person, concerning the construction or the non-construction of a dam on the St. Charles river, in the City of Quebec. Presented March 18, 1920. Mr. Parent.....*Not printed.*

89. Return to an Order of the House of the 10th March, 1920, for a Return showing the total amount of Canadian securities previously held in Great Britain, and sold to the United States, with the amount of interest now payable by this Dominion to the United States to replace amount formerly paid to Great Britain. Also a copy of all correspondence relating to this matter. Presented March 18, 1920. Mr. Devlin.....*Not printed.*

90. Return to an Order of the House of the 11th March, 1920, for a copy of all correspondence, agreements and contracts, between the Government and any banks touching the payment of officers and men in the Canadian Expeditionary Forces, especially as regards the rates of exchange prevailing between Canadian and British currency and the manner in which the same affected the pay of said officers and men, together with copies of all departmental or other Government orders or regulations dealing with the subject of soldiers' pay and the effect of fluctuations of exchange thereon. Presented March 22, 1920. Mr. McMaster.....*Not printed.*

91. Return to an Order of the House of the 11th March, 1920, for a Return showing:—1. The number of officers being retained in the service of the Militia Department at Headquarters at Ottawa who have not seen service overseas. 2. Their names, positions, salaries and length of time in the service, respectively. 3 Whether returned men are available for those positions. Presented March 22, 1920. Mr. McKenzie. *Not printed.*

CONTENTS OF VOLUME 10—*Continued*

91a. Return to an Order of the House of the 29th March, 1920, for a Return giving a list of the names of all the officers employed at the Headquarters of the Militia Department, at Ottawa, their respective salaries the date of their appointment and the length of their services in the Canadian Expeditionary Force. Presented June 8, 1920. Mr. Archambault ..... *Not printed.*

92. Return showing:—1. Names of the tenderers for the works to be done at the following places in the County of Montmorency, Quebec: Ste. Anne de Beaupre, Ste. Famille-Ile d'Orleans, St. François du Sud Ile d'Orleans, St. Jean-Isle d'Orleans, Ile de la Quarantine, Pointe aux Trembles. 2. Where they reside. 3. Amount of each tender 4. Who the successful tenderers were. 5. Whether the said works have been started. 6. When they will be completed. Presented March 22, 1920. Mr. Casgrain. *Not printed.*

93. Orders in Council relating to the organization and work of the Department of Health, as follows: 1. Order in Council, P.C. 1627, dated August 2, 1919, naming the President of the Privy Council as the Minister of the Crown to preside over the Department of Health and providing for the transfer to the Department of Health from the Department of Immigration and Colonization of the staff of the Quarantine and Medical Service. 2. Order in Council, P.C. 1765, dated August 23, 1919, transferring to the Department of Health from the Department of Trade and Commerce the administration of the Adulteration Act, the Proprietary or Patent Medicine Act, the Commercial Feeding Stuffs Act and the Fertilizers Act. 3. Order in Council, P.C. 2204, dated October 30, 1919, transferring to the Department of Health the work of the Housing Committee of the Cabinet. 4. Order in Council, P.C. 2321, dated November 21, 1919, transferring to the Department of Health from the Department of Marine and Fisheries, the administration of Marine Hospitals. 5. Order in Council, P.C. 2612, dated December 31, 1919, transferring to the Department of Health the Medical Branch of the Commission of Conservation Presented by Hon. Mr. Rowell, March 24, 1920..... *Not printed.*

93a. Order in Council, P.C. 1961, dated September 29, 1919, covering the appointment of an Advisory Board as prescribed in the "Act to amend the Proprietary or Patent Medicine Act." Chapter 66, 9-10 George V. Order in Council, P.C. 2079, dated October 8, 1919, covering the appointment of the Dominion Council of Health. Order in Council, P.C. 328, dated February 11, 1920, accepting the resignation of the Hon. Walter R Rollo as a Member of the Dominion Council of Health and appointing Mr. H. J. Halford, of Hamilton, Ontario, Vice-President of the Trades and Labour Congress of Canada, in Mr. Rollo's place. Presented by Hon. Mr. Rowell, March 25, 1920. *Not printed.*

94. Copies of General Orders promulgated to the Militia for the period between February 1, 1919, and February 2, 1920. Also,—Copies of all Routine Orders of the Canadian Expeditionary Force promulgated from February 22, 1919, to February 24, 1920. Presented by Hon. Mr. Guthrie, March 24, 1920..... *Not printed.*

95. Appointments, Promotions and Retirements, Canadian Militia and Canadian Expeditionary Force, from February 6, 1919, to January 22, 1920. Presented by Hon. Mr. Guthrie, March 24, 1920..... *Not printed.*

96. Return to an Order of the House of the 18th September, 1919, for a Return showing:—1. The total number of men who joined the Expeditionary Force for service in Siberia. 2. How many of such number voluntarily enlisted for service in Siberia. 3. Whether the Government is aware as to whether or not a considerable number of members of such Expeditionary Force were made to embark at Victoria, B.C., by compulsion and with the point of the bayonet directed at them. 4. Whether the Government is aware as to whether or not certain members of such Expeditionary Force who had not voluntarily enlisted for service in Siberia were court-martialed and sentenced to hard labour. If so, who such members are and what the nature of the sentence was. 5. The cost to the Government of the Expeditionary Force for service in Siberia Presented March 25, 1920. Mr. Archambault *Not printed.*

96a. Return to an Order of the House of the 7th April, 1920, for a copy of all correspondence, documents, and records including the evidence and judgments in connection with the trials held by Field General Court Martial of the 259th, of the Canadian Expeditionary Force in Siberia, on the following Riflemen, sentenced on the 28th of January, 1919: Alfred Laplante, O. Boisvert, Edmond Leroux, Joseph Guenard, E. Pauze and Arthur Roy. Presented May 18, 1920. Mr. Archaumbault. *Not printed.*

97. Return to an Order of the House of the 17th March, 1920, for a Return showing:—1. Whether any work has been done on any of the lines enumerated in the Second Schedule of Chap. 13, 9-10, George V, being an Act to incorporate the Canadian National Railway Company and respecting Canadian National Railways 2. If so, on what particular line the work has been done. 3 What kind of work has been done. 4. How much money has been expended for this work. 5. How much in construction. In surveys. In expropriation, and the purchase of the Right of Way. 6. How many station sites have been located on said lines, what the name is of each station, and on what particular line. 7. Description of the land upon which it is located. How much was paid for said station site, and who was representing the Government or the Canadian National Railways in negotiating the purchase. 8. If moneys were paid for any of such sites, to what appropriation they were charged, and on whose order they were paid. 9. Whether any Order in Council has been passed entrusting said company with the management and operation of the Grand Trunk Pacific and the Intercolonial Railways. Presented March 25, 1920. Mr. Bureau..... *Not printed.*

98. Return to an Order of the House of the 18th March, 1920, for a copy of all representations, complaints and other correspondence filed with the Civil Service Commission regarding Classification of the Civil Service of Canada Presented March 26, 1920. Mr. Fripp *Not printed.*

98a. Return to an Order of the House of the 12th April, 1920 for a Return showing:—1. Number of classification engineers employed in connection with the Civil Service. 2. Total amount paid to classification engineers to date in connection with the work of classifying the Civil Service. 3. Further estimate required to complete the work. Presented April 29, 1920. Mr. Sinclair (Antigonish.)..... *Not printed.*

99. Return to an Order of the House of the 10th March, 1920, for a copy of all correspondence relating to the appointment of the Postmaster at Metabetchouan, Quebec. Presented March 29, 1920. Mr. Savard..... *Not printed.*

100. Draft Conventions and Recommendations adopted by the International Labour Conference at Washington and communicated to the Government by the Secretary-General of the League of Nations pursuant to Article 405, Treaty of Versailles:—1. Draft Convention limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week. 2. Draft Convention concerning unemployment. 3 Recommendation concerning unemployment. 4. Recommendation concerning reciprocity of treatment of foreign workers. 5. Draft Convention concerning the employment of women before and after childbirth. 6. Draft Convention concerning the employment of women during the night 7. Recommendation concerning the prevention of anthrax. 8 Recom-

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mendation concerning the protection of women and children against lead poisoning 9 Recommendation concerning the establishment of Government Health Services 10 Draft Convention fixing the minimum age for admission of children to industrial employment 11 Draft Convention concerning the night work of young persons employed in industry 12 Recommendation concerning the application of the Berne Convention of 1906, on the prohibition of the use of white phosphorus in the manufacture of matches Presented by Hon Mr. Rowell, March 29, 1920 *Not printed*

100*a* Return showing—1 Names of the Canadian representatives at the International Labour Conference last fall. 2 Amount expended in connection with this delegation 3 Names of Canadian representatives at the Labour Conference at Paris 4 Amount expended in relation thereto Presented March 29, 1920 Mr. Archambault *Not printed*

101. Return to an Order of the House of the 18th March, 1920, for a Return showing 1 On what date a Branch of the Public Works Department was first established at Antigonish, N S 2 What counties in Nova Scotia were originally under the jurisdiction of the Antigonish Branch 3 When the North Sydney office was established. 4 Names of the employees in the Antigonish Branch prior to the change and the amount of their yearly salaries. 5 Names of the employees in both offices on December 31, 1914, and their yearly salaries 6 Names of the present employees in both branches and their respective yearly salaries 7 How much was expended in public works in the area under the jurisdiction of the Antigonish Branch for five years prior to December 31, 1911. 8 How much was expended in public works in the area covered by both the Antigonish and North Sydney Branches during the five years subsequent to January 1, 1912. Presented March 29, 1920 Mr Sinclair Antigonish *Not printed.*

101*a*. Return showing the details of the expenditure of $1,372 079 82 made in the area covered by both the Antigonish and North Sydney Branches of the Department of Public Works during the five years subsequent to January 1, 1912 Presented April 7, 1920. Mr Sinclair Antigonish *Not printed.*

102. Return to an Order of the House of the 22nd of March, 1920, for a copy of all correspondence relating to the public cross-road between Ste.-Catherine and Tadoussac. Presented March 29, 1920 Mr Savard *Not printed.*

103. Return to an Order of the House of the 29th March, 1920, for a Return showing—(*a*) the total production of coal in Canada during the past ten years (*b*) how much of said coal was anthracite (*c*) the total importation of coal into Canada during the same period (*d*) how much of same was anthracite (*e*) the total exportation of coal from Canada during the past ten years and (*f*) how much of this total was anthracite Presented March 31, 1920. Mr. Archambault *Not printed.*

104. Return to an Order of the House of the 10th March, 1920, for a Return showing:—1. What amount of money has been expended by the Government during the years 1918-19-20 in providing seed grain for settlers in the Lethbridge and Calgary land districts respectively 2 What amount of money has been expended by the Government as its share of the freight charges in providing feed for live stock in Southern Alberta in the years 1918-19-20. Presented April 6, 1920. Mr. Buchanan. *Not printed.*

105. Return to an Order of the House of the 15th March, 1920, for a Return showing for each of the fiscal years 1891, 1896, 1901, 1906, 1911, 1914, 1915, 1916, 1917, 1918, 1919 and estimated 1920—(*a*) Total revenue of the Dominion (*b*) Expenditure chargeable to Consolidated Fund (*c*) Expenditure chargeable to capital (*d*) Total expenditure (*e*) Estimated population (*f*) Total revenue per head of population (*g*) Expenditure per head chargeable to Consolidated Fund, and (*h*) Total expenditure per head. Presented March 6, 1920. Mr. Fielding *Not printed.*

106. Return to an Order of the House of the 22nd March, 1920, for a Return showing:—1 The total amount of the gross consolidated debt of Canada on the 28th of February, 1920 2 Total amount of the net consolidated debt of Canada on the same date 3 Total amount of the assets of the consolidated debt of Canada on the said date 4 Total amount of the yearly interest payable on the gross consolidated debt of Canada on the said date 5 Total amount of yearly interest or revenue received or collected by Canada in respect to the property or securities constituting the assets of the public debt 6. Total amount of the floating debt of Canada on the 28th of February, 1920 7 Total amount of yearly interest payable on the floating debt of Canada on the said date Presented April 6, 1920 Mr Parent *Not printed*

107. Return to an Order of the House of the 24th March, 1920, for a copy of the correspondence between the Minister of Lands and Forests of the Province of Quebec and the Soldiers' Settlement Board Presented April 6, 1920 Mr Gauvreau *Not printed.*

108. Return showing—1 What loans have been negotiated by the Dominion Government since 1911 2 The distinctive name of each loan and its amount 3 Of the said loans, which were (*a*) foreign, (*b*) British, and (*c*) Canadian. Presented April 7, 1920. Mr. Casgrain *Not printed.*

109. Return to an Order of the House of the 19th March, 1919, for a return showing the total cost and general expense of the 1918 Victory Loan, including detailed statements of the amounts paid to brokers, banks, newspapers, advertising agencies, and all other persons, corporations, firms and agencies to whom payments were made, giving the names of such persons, banks, newspapers, agencies or firms in each case. Presented April 7, 1920. Mr. Blake *Not printed.*

110. Report of the Explosives Division of the Department of Mines for the year 1919. The Senate *Not printed.*

111. Return to an Order of the House of the 22nd March, 1920, for a Return showing the number of persons or corporations paying and the aggregate amount paid by each group by way of Dominion Income Tax in the City of Toronto during the fiscal years 1917 and 1918 whose assessed income was over $1,500, $6,000, $10,000, $20,000, $30,000, $50,000, $100,000. Presented April 12, 1920 Mr Kennedy *Not printed.*

112. Return showing—1 Number of post offices on the north shore of the St Lawrence from Tadoussac to Esquimaux Point 2 Names, postal addresses and the date of appointment of each of these postmasters Presented April 12, 1920 Mr Savard *Not printed.*

113. Return to an Order of the House of the 25th March, 1920, for a Return showing how many houses have been commenced, and how many finished, under the legislation of a year ago Presented April 13, 1920. Mr Clark Red Deer *Not printed.*

114. Copy of Resolutions of thanks passed by the British House of Commons to the Forces engaged in the late War, and embodying thanks to the troops from the Dominions overseas for their services during the said war. Presented by Hon. Mr. Rowell, April 13, 1920 *Not printed.*

CONTENTS OF VOLUME 10—*Continued.*

115. Return to an Order of the House of the 31st March, 1920, for a copy of all correspondence, Orders in Council, reports and all other documents respecting the apportionment of expenses on the League of Nations and the payment of the sum of $64,043.15 on February 13th, 1920, as Canada's share of such expense. Presented April 13, 1920. Mr Fielding ..... *Not printed*

116. Return to an Order of the House of the 15th March, 1920, for a copy of all papers, documents, telegrams, correspondence and reports made between the Department of Naval Service and the Inspector of Fisheries in Prince Edward Island or any other party or parties regarding the sale of the lobster hatchery at Charlottetown, P.E.I. Presented April 15, 1920. Mr. Sinclair (P.E.I.) ..... *Not printed.*

117. Return to an Order of the House of the 19th March, 1919, for a Return showing: 1. The number of vessels belonging to the Canadian Government in the Canadian Naval Service during the war. 2. Their names. 3. The number of vessels employed in the work of the Canadian Naval Service rented or chartered during the period of the war. 4. Their names. Presented April 15, 1920. Mr. Desiauriers ..... *Not printed.*

118. Return to an Order of the House of the 24th March, 1919, for a Return showing the number of commutation of sentences accorded by the Department of Justice to prisoners condemned to be hanged, where the crimes were committed, and the sentence imposed after commutation, within the last four years. Presented April 15, 1920. Mr. Casgrain. *Not printed*

119. Return to an Order of the House of the 10th March, 1920, for a Return showing -1 Number of persons discharged from the Government Printing Bureau and Department of Public Printing and Stationery from 1st January, 1919, to 1st March, 1920. 2. Upon whose recommendation and report dismissals were made. 3. Whether the King's Printer or Assistant King's Printer recommended the persons to be dismissed. 4. Whether the report of dismissal was in writing. 5. What qualifications the person or persons had who investigated the respective cases for dismissal, what investigation was made by them' and whether their conclusions are reduced to writing. Presented April 15, 1920. Mr. Fripp ..... *Not printed.*

120. Return to an Order of the House of the 24th March, 1920, for a copy of all letters, telegrams, correspondence, and other papers in the possession of the Government, in connection with the transfer of mail bags from the C.P.R. mail car to the mail car of the Quebec, Montreal and Southern Railway Company, and from the latter to the former, at Iberville Junction, during the period extending from the month of November, 1917, to the month of April, 1918. Presented April 16, 1920. Mr. Demers ..... *Not printed.*

121. Return to an Order of the House of the 31st March, 1920, for a copy of all telegrams, papers, letters and correspondence with reference to the application for naturalization of Professor F. V. Richthdorf, alias Frederick Edwards, 205 Scott Block, Winnipeg, also for copies of all correspondence to date with reference to the resignation of the said F. V. Richthdorf, alias Frederick Edwards, from the employ of the Department of State and in particular correspondence with the President of the Privy Council, Controller McLean and Mr. A Brophy of the said Department. Presented April 16, 1920. Mr. Power ..... *Not printed.*

122. Return to an Order of the House of the 22nd March, 1920, for a Return showing: 1. Number of chartered banks in Canada in 1880. 2. Number of chartered banks in Canada at the present time. 3. What profits, as shown by their annual statements, were made by each of the chartered banks in the years 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918 and 1919. 4. What taxes each paid to the Federal Treasury in each of the above years. 5. What amount, not being interest on money borrowed, the Federal Government paid to each chartered bank in each of the years 1914, 1915, 1916, 1917, 1918 and 1919 for service rendered. 6. The paid up capital of each bank, and its reserve. Presented April 16, 1920. Mr. Ross ..... *Not printed.*

123. Copy of all correspondence, papers, documents and telegrams, concerning the amelioration of conditions among the Indians and Eskimos inhabiting the east coast of James and Hudson Bays, from East Main River in the south to Hudson Straits in the north, showing what has been and is being done to provide emergency relief, medical attention, administration of Justice, industrial training, introduction of reindeer treaty rights, securing of adequate prices for their furs, and any other matter in the interests of these people. The Senate ..... *Not printed.*

124. Return to an Order of the House of the 15th April, 1920, for a Return showing: -1. What the value in Canadian currency of the British pound sterling was on the first of the months of November and December, 1914, on the first of all the months of the years 1915, 1916, 1917, 1918, and on the first of January and February, 1919. 2. During the years 1914, 1915, 1916, 1917 and 1918, whether the officers and men of the Canadian Expeditionary Force were paid in accordance with the rates of exchange prevailing at the various times at which payments were made to them, and if not, at what rate or rates. 3. What was done in this respect with payments made to interned Canadian soldiers, and at what rate or rates their pay was converted into the currencies of the countries in which they were interned. Presented April 19, 1920. Mr. McMaster ..... *Not printed.*

125. Return to an Order of the House of the 12th April, 1920, for a Return showing: 1 How much, if any, of the Federal Emergency Fund for the re-establishment of the returned soldier was overpaid or inadvertently paid to those not entitled to it under the regulations 2 How much of this amount has been recovered. 3. How many prosecutions have been instituted for this recovery. 4. What the decision has been in each case. 5. Whether it is the intention of the Government to undertake any further action in cases of this nature Presented April 19, 1920. Mr Chisholm ..... *Not printed*

126. Return to an Order of the House of the 12th May, 1919, for a Return showing:—1. Whether prosecutions were authorized by the Government against parties in the Province fo Nova Scotia for neglecting to place War Revenue Stamps upon packages of Proprietary or Patent Medicine before the sale thereof, as required by the War Revenue Act, 1915. 2 Person or persons appointed to institute these prosecutions 3. Number of prosecutions, if any brought. 4. Names of solicitors designated by the Government to conduct them. 5. Terms of said solicitors' appointment 6 Gross amount of fines imposed 7. In what counties in Nova Scotia such prosecutions were brought 8. Who recommended the appointment of such Prosecutors and Solicitors Presented April 19, 1920. Mr. Sinclair (Antigonish). ..... *Not printed.*

127. Copy of Order in Council P.C. 395, dated 18th February, 1920, in respect to the organization of an Air Force in Canada. Presented by Hon. Mr. Sifton, April 19, 1920 ..... *Not printed.*

128. Return showing. -1 For what purposes the special Trade Commission of the overseas branch of the Department of Trade and Commerce has been created, and how the purposes are to be accomplished. 2. Who is in charge thereof, and his salary. 3. If publicity for Canadian production is sought, who has received the appointment

CONTENTS OF VOLUME 10—*Continued.*

of publicity expert, and what the proposed remuneration is for such. 4. What sums, annually or otherwise, are paid by Canada to the British newspaper known as *Canada*, and what sums to the *Canada Gazette*. Presented April 19, 1920. Mr. McMaster *Not printed.*

129. Return to an Order of the House of the 7th April, 1919, for a copy of the correspondence exchanged between F. X. Gagnon, Port Daniel East, Quebec, and the Department of Justice, regarding the Military Exemption Tribunal which sat at that place. Presented April 20, 1920 Mr Marcil (Bonaventure) *Not printed.*

130. Return to an Order of the House of the 29th September, 1919, for a copy of all telegrams, letters, contracts and plans, passed between the Commission of the Transcontinental Railway, or the Government and the City of Quebec, the different transport companies, the Harbour Commission of Quebec or any other persons, corporations or companies from 1910 to date, concerning the construction of a railway station at the Champlain Market in the city of Quebec, also the construction, in the said city, of wharves, docks, elevators to facilitate the transport of grain from the West via the Port of Quebec. Presented April 20, 1920. Mr. Parent.....*Not printed.*

130a Return to an Order of the House of the 5th May, 1920, for a copy of all documents, contracts and correspondence relating to the negotiations between the City of Quebec and the Transcontinental Railway regarding the Champlain market site and the proposed docks and grain elevators situated along the front of the St. Lawrence river Quebec. Presented May 18, 1920. Mr. Power *Not printed.*

131. Return to an Order of the House of the 29th September, 1919, for a copy of all documents, letters, and plans, submitted by the Harbour Commission of Quebec since 1910 to date, concerning the construction of wharves, docks elevators, cold storage, terminal facilities in the Port of Quebec, for the transport by land and water. Presented April 21, 1920. Mr. Parent.....*Not printed.*

132. Return showing 1 Minimum and maximum salary being paid to postmasters 2 By what method the minimum and maximum salary of postmasters is determined 3 Whether postmasters receive a bonus on account of the high cost of living. 4. If not, why. 5 Minimum and maximum salary being paid to rural mail carriers. 6 Whether the Government has fixed a maximum rate per mile to apply to rural mail routes 7 How the salary of rural mail carriers is determined 8. Whether rural mail carriers receive a bonus on account of the high cost of living 9 If not, why. 10 Minimum and maximum salary being paid to letter carriers. 11 Whether letter carriers receive a bonus. 12. If so, how much. Presented April 21, 1920. Mr. Kennedy (Glengarry.) *Not printed.*

133. Return showing.—1. Number of persons employed in the province of Quebec in connection with the work of the Soldiers' Settlement Board. 2. Their names and post office addresses 3 Salary or remuneration each one is drawing 4. Whether any of these employees are allotted to certain constituencies 5. If so, what persons are allotted to the various constituencies, and to what constituencies. Presented April 26, 1920. Mr. Tobin. *Not printed.*

134. Return to an Order of the House of the 31st March, 1920, for a copy of all letters, telegrams and other correspondence that has passed between one George Carvill, of the City of St John, formerly City Ticket Agent for the Canadian Government Railway (formerly Intercolonial Railway) at the said City of St John, and any and all others for and on behalf of the said George Carvill and the Minister of Railways and Canals, Deputy Minister or any other Ministers of the Government or any general manager, assistant manager, superintendent or other officials of the Canadian Government Railway in reference to the dismissal of the said George Carvill from said railway on the 30th day of April, A D 1917, and the request of the said George Carvill for an investigation under oath before an independent tribunal into the causes for his dismissal and the refusal of the management of the said railway to grant such an investigation. Presented April 27, 1920. Mr. Copp.....*Not printed.*

135. Return to an Order of the House of the 22nd March, 1920, for a copy of all documents, letters, telegrams and other correspondence in the hands of the Government concerning the proposed railway between St Camille, County of Bellechasse, and Cabano, County of Temiscouata. Presented April 27, 1920. Mr. Fafard .....*Not printed.*

136. Return to an Order of the House of the 22nd March, 1920, for a copy of the Report made by the Board of Railway Commissioners for Canada, on the application of the Canadian Pacific and Grand Trunk Railway Companies, on behalf of themselves and other railways carrying His Majesty's mail in Canada, asking that fair and reasonable rates be fixed by the Board for the carriage of mails pursuant to the reference of the matter to the Board by Order in Council, P C., 617, dated March 7, 1917, for the determination as to the accuracy or inaccuracy of the claim made by the railway companies, that these rates are inadequate, and, if it is found that the present rates are inadequate to determine as the result of evidence to be submitted by the Post Office Department and the railway companies interested what would be a fair rate of payment for the service Also a copy of all correspondence between members of the Government or any officials thereof and the Board of Railway Commissioners or any officials thereof in reference to the report mentioned above. Presented April 27, 1920. Mr. Bureau *Not printed.*

136a. Return to an Order of the Senate dated April 28, 1920, for a Return of the evidence and other proceedings submitted before the Dominion Railway Commission at the sessions at Ottawa on October 3, 1911, November 7, 1911, and March 18, 1919, relating to freight rates and all matters before said Board on said rates. 2 A copy of the report made by said Board to the Government as the result of said investigations. 3 A copy of the postal rate agreement or agreements existing between the Government and the railway companies for parcel post service, including a statement or copy of the rates charged by the Government railways 4 A copy of the report made by the Dominion Railway Board to the Government on the contracts between the Government and the railway companies as to the rates charged for the postal services. 5. Does the said report show or is the Government aware that the rates fixed and paid are less than it cost the railway companies to perform the services. 6 What quantity of mail is carried annually by parcel post. 7. How much of it is carried for mail order houses distinguishing quantities by provinces. 8 What are the postal rates charged for parcel post packages, (*a*) to the public (*b*) to mail order houses. 9 Do these rates pay the full cost of transportation If not, what is the loss 10 If there is a loss how is it provided for? 11. Does the Government intend to make a change in the parcel post rates. If so, what. The Senate.....*Not printed.*

137. Return to an Order of the House of the 12th April, 1920, for a Return showing at the end of the fiscal year 1910, and each subsequent year, the total assets of Canada, the amount received in each year as interest or other income from such assets, and the average rate of interest or other income so received in each year. Presented April 28, 1920. Mr. Fielding .. .. *Not printed.*

CONTENTS OF VOLUME 10—*Continued.*

138. Return to an Order of the House of the 10th March, 1920, for a Return showing:—1. The total amount of commission charges paid to brokers and agents in connection with the last Victory Loan. 2. What amounts have been paid to each of the said brokers and agents. 3 Whether any of the said commission charges have not yet been paid. 4. If so, whose accounts they are, and for what reason they have not been paid. Presented April 28, 1920. Mr. Archambault . . . . . *Not printed.*

139. Return showing:—1. Names of the so-called experts employed by the Arthur Young Company to classify the employees of the various departments, and which department or departments did each such expert classify. 2. The ages, nationality educational, and practical qualification, including positions previously held, with special reference to classification work, of each such expert. 3. *a*) Cost to the Government for the services of each such expert; *b*. what is the cost to the Arthur Young Company of the services of each expert Have they been paid in Canadian or American money. 4. How many Deputy Ministers have approved the classification of hheir departments. 5. Whether the Arthur Young Company pay an income or business tax in Canada. 6. In case of difference of opinion respecting classification between the so-called experts and the Civil Service Commission whose opinion prevails. Presented April 28, 1920. M. Gauvreau.....*Not printed.*

140. Return to an Order of the House of the 14th April, 1920, for a copy of all reports, letters, petitions or documents referring to claims for damages on behalf of innocent victims who, during the so-called Quebec riots of 1918, have either been killed or wounded by the soldiers of His Majesty. Presented April 29, 1920. Mr. Parent. *Not printed.*

141. Return to an Order of the Senate dated April 18, 1918, for a Return showing:—The amount paid in each year since 1900 inclusive, for (*a*) reporting, (*b*) translating, (*c*) typewriting, and (*d*) printing proceedings before Commission of Inquiry and all other investigations for or on behalf of the Government or any Department thereof, in English and in French respectively, the names of the persons under *a*, *b* and *c* to whom such payments were made, the amount paid to each as salary or other compensation, and the amount paid on account of each such person for travelling and living expenses. The Senate..... *Not printed.*

142. Return to an Order of the Senate, dated April 16, 1918, for a Return referring to Return of the Senate (No. 7, August 23, 1917, *re* officers 78th Regiment, Highlanders of Pictou County, Nova Scotia):—1. *a* Giving the names of the officers mentioned in the said Return who served with the overseas forces at the fighting front since said Return was compiled. *b*. The unit and date each one so served. *c*) The number who became casualties, and when. 2 The location, connection and rank of each of the officers mentioned in said Return in the overseas forces at the present time. The Senate.....*Not printed.*

142*a*. Supplementary Return to an Order of the Senate dated April 16, 1918, for a Return referring to Return of the Senate (No. 7, August 23, 1917, *re* officers 78th Regiment, Highlanders of Pictou County, Nova Scotia)—1. (*a*) Giving the names of the officers mentioned in the said Return who served with the overseas forces at the fighting front since said Return was compiled. (*b*) The unit and date each one so served. (*c*) The number who became casualties, and when. 2. The location, connection and rank of each of the officers mentioned in said Return in the overseas forces at the present time. The Senate.....*Not printed.*

143. Copy Declaration by the Supreme Council of the Peace Conference on the Economic Conditions of the World The Senate . . . . . *Not printed.*

144. Return showing:—1. Whether the Government pays the expenses of an office in Toronto for A. V. White, consulting engineer of the Conservation Commission. 2. If so, what expenses for said office it paid in the fiscal year 1919-20, including rent, salaries of assistants, travelling expenses, etc. 3. What relation, if any, the said A. V White is to James White, Deputy Head of the Conservation Commission. 4 If any other relatives of its Deputy Head were employed by the Conservation Commission in the past fiscal year, their names, what positions they fill and what salaries were paid them. 5 Whether it is the practice of the Government to maintain offices for all its consulting engineers. 6. Whether it is the intention of the Government to continue to defray the expenses of the Toronto office of the said A. V. White. 7. If the said A. V. White was employed by the Department of Public Works, what was the last year he was so employed and what remuneration he was paid. 8. At what annual salary rate he is being paid by the Conservation Commission for 1920-21. 9 What reports, if any, by A. V. White, other than reports on water-powers and hydro-electric conditions, the Conservation Commission has published 10 Whether A. V White holds the degree of Electrical Engineer from a recognized university 11 Name of the Hydro-Electric Engineer of the Conservation Commission 12. What degrees he holds and what practical experience he has had. 13. What annual salary he is paid. Presented May 3, 1920. Mr. Casgrain. *Not printed.*

145. Return showing:—1 How many farms in each constituency in the province of Quebec were purchased by returned soldiers under the provisions of the Soldiers' Settlement Act. 2. The names of the buyers and sellers of each of the said farms. 3. The price paid for each of these farms. 4. Who visited each of the said farms on behalf of the Government. 5 What assistance was given by the Government in connection with each purchase. Presented May 3, 1920. Mr. Tobin.....*Not printed.*

146. Return to an Order of the House of the 19th April, 1920, for a Return showing:—1 Whether there was any printing done for the Government out-side of the Printing Bureau during the years 1918-1919. 2. If so, by whom. 3. Addresses of persons or firms to whom such printing was given. 4. Amount paid for this outside printing, in each case, in 1918-19. Presented May 4, 1920. Mr. Dechesne . . . . . *Not printed.*

147. Return to an Order of the House of the 19th April, 1920, for a Return showing:—1. Amounts loaned or credits given by the Government of Canada: (*a*) to Greece; (*b*) to Rumania. 2. The dates these loans were granted or credits given: (*a*) to Greece; (*b*) to Rumania. 3. The nature of merchandises purchased by the Government of Canada and charged in each case: *a*) to Greece (*b*) to Rumania. 4 The names of commercial firms or persons from whom said goods were so purchased, specifying: (*a*) the nature of goods in each case *b*) the amounts paid by the Government to these firms or persons in each case and also the date of these payments. Presented May 5, 1920 Mr. Archambault . . . . . *Not printed.*

148. Return to an Order of the House of the 10th March, 1920, for a copy of all telegrams, petitions, letters and documents of all kinds sent to the Post Office Department referring in any way to the mail route and mail service between Mabou, N.S., and Whycocomagh, N.S. Presented May 5, 1920. Mr. Chisholm . . . . *Not printed.*

CONTENTS OF VOLUME 10—*Continued.*

149. Return to an Order of the House of the 31st March, 1920, for a copy of all correspondence, reports and other documents in any way referring to a proposed change in the site of Beatonville Post Office, Inverness County, N.S. Presented May 7, 1920. Mr. Chisholm. *Not printed.*

150. Return showing: 1. How many persons are employed on the staff of the Civil Service Commission. 2. Their names. 3. The respective salaries of said persons. Presented May 6, 1920. Mr. Hocken. *Not printed.*

151. Return to an Order of the House of the 26th April, 1920, for a return showing the total quantity in gallons, of spirituous liquors imported into Canada during the years 1913, 1914, 1915, 1916, 1917, 1918 and 1919; and also showing the value in money of the said imports during the same years. Presented May 10, 1920. Mr. Archambault. *Not printed.*

152. Return to an Order of the House of the 3rd May, 1920, for a copy of all correspondence and reports concerning the dismissal of Mr. Elisée Parent, inspector of Inland Revenue, the 6th of September, 1916, file No. 111085. Presented March 10, 1920. Mr. Rinfret. *Not printed.*

152a. Supplementary Return to an Order of the House of the 3rd May, 1920, for a copy of all correspondence and reports concerning the dismissal of Mr. Elisée Parent, inspector of Inland Revenue, the 6th of September, 1916 (file No. 111085). Presented May 17, 1920. Mr. Rinfret. *Not printed.*

153. Return to an Order of the House of the 10th March, 1920, for a copy of all correspondence between the Dominion Government or any member thereof and the Dominion Manufacturers' Association or any manufacturer, relating to appeals from the Supreme or other courts in regard to validity of certain Dominion or Provincial Acts and Provincial Licenses whereby the Dominion Government undertook to give financial aid to said manufacturers for said appeals, as shown in the *Financial Times*, Montreal, of the 21st February, 1920. Presented May 10, 1920. Mr. Devlin. *Not printed.*

154. Return to an Order of the House of the 19th April, 1920, for a Return showing: 1. Number of translators employed by the Senate, House of Commons and the different departments of the Government, and number employed by each department. 2. Number employed permanently. 3. Number engaged for the session only. 4. Total annual cost of the translation service. 5. Whether any translation was done outside of Ottawa during the fiscal year ending 31st March, 1919. 6. If so, in how many instances, and what rate was paid per page of printed matter. Presented May 10, 1920. Mr. Hocken. *Not printed.*

155. Return to an Order of the House of the 5th May, 1920, for a copy of a letter from the Board of Trade of the City of Quebec to the Minister of Trade and Commerce, dated October 24, 1919, concerning the new policy adopted by the Ocean Mail Steamers of not stopping at Quebec in their outward voyage, and a copy of the answer to said letter. Presented May 10, 1920. Mr. Lapointe. *Not printed.*

156. Return to an Order of the House of the 29th April, 1920, for a Return showing: 1. Name of each official and clerk in the Fisheries Branch at Ottawa who will be in receipt of a salary of $1,800 or over during the fiscal year 1920-21. 2. Salary of each such official and clerk during the fiscal years 1916-17, 1917-18, 1918-19 and 1919-20. 3. Minimum and maximum salary of each such official and clerk as at present fixed by the classifying experts of the Civil Service Commission. 4. What the salary of each such official and clerk will be during the fiscal year 1920-21. 5. What practical experience or direct connection, if any, each such official and clerk has had in or with the fishing industry; the nature of such experience or connection and the number of years it covers. 6. What position each such official and clerk, who has had no practical experience in or direct connection with the fishing industry, filled or what duties he performed on first becoming attached to the Fisheries Branch. 7. Present duties and responsibilities of each such official or clerk. Presented May 10, 1920. Mr. Duff. *Not printed.*

157. Return to an Order of the House of the 3rd May, 1920, for a copy of all correspondence, telegrams, and other documents exchanged between Dr. L. W. McNutt, Vancouver, B.C., and the Department of Soldiers' Civil Re-establishment, Sir Robert Borden and the Director of Medical Services of the Soldiers' Civil Re-establishment, with reference to claim for $2,590.72 by the said Dr. McNutt against the above mentioned department, and also with reference to the resignation or dismissal of the said Dr. McNutt from the department in question. Presented May 11, 1920. Mr. Power. *Not printed.*

158. Return to an Order of the House of the 17th March, 1920, for a Return showing: 1. Number of employees in the inside service of the Labour Department. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

158a. Return to an Order of the House of the 17th March, 1920, for a Return showing: 1. Number of employees in the inside service of the Post Office Department. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

158b. Return to an Order of the House of the 17th March, 1920, for a Return showing: 1. Number of employees in the inside service of the Secretary of State Department, including the Printing Bureau. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

158c. Return to an Order of the House of the 12th April, 1920, for a Return showing: 1. Number of persons employed by the Civil Service Commission. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

158d. Return to an Order of the House of the 17th March, 1920, for a Return showing: 1. Number of employees in the inside service of the Department of Interior. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

158e. Return to an Order of the House of the 17th March, 1920, for a Return showing: 1. Number of employees in the inside service of the Marine and Fisheries Department. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken. *Not printed.*

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158f. Return to an Order of the House of the 22nd March, 1920, for a Return showing:—1. Number of employees in the inside service of the Finance Department including the Insurance Branch. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Tobin.....*Not printed.*

158g. Return to an Order of the House of the 17th March, 1920, for a Return showing:—1. Number of employees in the inside service of the Department of Trade and Commerce. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 11, 1920. Mr. Hocken.....*Not printed.*

158h. Return to an Order of the House of the 17th March, 1920, for a Return showing:—1. Number of employees in the inside service of the Militia Department. 2. How many are males. 3. How many are females. 4. How many males are French. 5. How many females are French. 6. How many males are Protestants. 7. How many females are Protestants. Presented May 17, 1920. Mr. Hocken.....*Not printed.*

159. Return to an Order of the House of the 26th April, 1920, for a Return showing:—1. What institutions are at present under the jurisdiction and management of the Department of Soldiers' Civil Re-establishment. 2. Number of patients in each institution. 3. Number of employees in each institution. 4. Cost per year of each institution. Presented May 12, 1920. Mr. Pardee.....*Not printed.*

160. Fifth Annual Report of the Board of Directors of the Canadian Northern Railway System, for the year ended December 31, 1919. Presented by Hon. Mr. Reid, May 12, 1920.....*Printed for sessional papers only.*

161. First Annual Report of the Board of Directors of Canadian Government Merchant Marine, Limited. Presented by Hon. Mr. Reid, May 12, 1920.....*Printed for sessional papers only.*

162. Return to an Order of the House of the 12th May, 1920, for a Return showing:—1. Sales of military and other supplies made by the War Purchasing Commission in each of the years 1917, 1918 and 1919, and amount of money obtained for these supplies in each of the above years. 2. Whether these supplies were sold by tender, by advertisement, or at public auction. 3. How military supplies, including rugs, furniture, etc., at Camp Borden were sold, who the purchasers were and what prices were received for the various articles. Presented May 14, 1920. Mr. Ross.....*Not printed.*

163. Return to an Order of the House of the 19th April, 1920, for a copy of all papers, letters, correspondence between the Department of Justice or any of its officers and the Civil Service Commission or any of its members with reference to the promotion of the Secretary to the Deputy Minister of Justice in 1919 and 1920. Presented May 14, 1920. Mr. Cahill.....*Not printed.*

164. Return to an Order of the House of the 24th March, 1920, for a copy of all correspondence and telegrams between the Dominion Government and the Alberta Government relating to irrigation development in Alberta, and more particularly to Lethbridge Northern Irrigation District. Presented May 17, 1920. Mr. Buchanan.....*Not printed.*

165. Return to an Order of the House of the 5th May, 1920, for a Return showing the names of all persons who have passed the Civil Service examinations from the province of Prince Edward Island in 1917, 1918 and 1919, showing. (a) the grade for which they passed; (b) the number of marks made by each; (c) those who are returned soldiers; (d) those who have received an appointment, with the name of their position. Presented May 17, 1920. Mr. Sinclair (P.E.I.).....*Not printed.*

166. Return to an Order of the House of the 12th April, 1920, for a Return showing:—1. Number of Civil Service Investigating Commissions appointed since the 1st of January, A.D. 1896. 2. On what respective dates said Commissions were appointed, what number of Commissioners comprised each Board, their names and their home addresses. 3. How long each Board was engaged on such inquiry and how much was paid to each. 4. Whether there is any Board or any Member of a past or present Board now engaged in connection with the Civil Service inquiry or classification of the Civil Service, other than the regular Civil Service Commission of which Honourable Doctor Roche is the Chairman. 5. What amount or amounts were paid by the Government to the Civil Service Classification Commissioners during the time from 1st January, 1916, to and including the 15th of March, A.D. 1920, what amounts were paid to each of the said Classification Commissioners and on what dates. Presented May 17, 1920. Mr. McKenzie.....*Not printed.*

167. Return to an Order of the House of the 17th May, 1920, for a Return showing:—1. Number of married women whose husbands did not serve in the Canadian Expeditionary Force who are in the pay of various Government departments at Ottawa. 2. Whether it is a fact that the Department of Immigration has in its employ a lady at a salary of $300 per month. 3. Whether this lady is the wife or mother of a returned soldier, and whether any effort was made at the time of her employment to secure the services of a war widow or dependent. 4. Whether this lady's husband is in the employ of the Government or of one of the provincial governments. 5. Whether it is a fact that the daughters of several departmental heads are employed by their fathers in Government service and that in such cases these young ladies hold positions which could be well filled with men who have been trained by the Department of Soldiers' Civil Re-establishment for the Civil Service but are unable to secure appointments. Presented May 19, 1920. Mr. Andrews.....*Not printed.*

168. Copy of Order in Council, P.C. 1595, dated 31st July, 1919, Appointment of Victory Loan Special Committee in connection with the stabilizing of the Victory Loan of 1917. Presented by Sir George Foster, May 20, 1920.....*Not printed.*

169. Reports submitted by the Officer in charge of the Canadian War Records Office, London, England, to the Right Honourable Sir Robert L. Borden, G.C.M.G., M.P., Prime Minister of Canada; and to the Honourable Sir Edward Kemp, K.C.M.G., M.P., Minister, Overseas Military Forces of Canada, 1916-1919, with which is included a Report of the Executive Committee of the Canadian War Memorials Fund. Presented by Sir Robert Borden, May 20, 1920.....*Not printed.*

170. Return to an Order of the House of the 19th May, 1920, for a Return showing:—1. Number of persons employed in the Department of Indian Affairs in Ottawa. 2. Their names and salaries. Presented May 21, 1920. Mr. Hocken.....*Not printed.*

170a. Return to an Order of the House of the 19th May, 1920, for a Return showing. 1. Number of persons employed in the Department of Labour in Ottawa. 2. Their names and salaries. Presented May 21, 1920. Mr. Hocken.....*Not printed.*

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170k. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Marine in Ottawa. 2. Their names and salaries. Presented May 21, 1920. Mr. Hocken. *Not printed.*

170. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Public Archives in Ottawa. 2. Their names and salaries. Presented May 26, 1920. Mr. Hocken. *Not printed.*

170c. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Trade and Commerce in Ottawa. 2. Their names and salaries. Presented May 26, 1920. Mr. Hocken. *Not printed.*

170d. Return to an Order of the House of 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of the Secretary of State in Ottawa. 2. Their names and salaries. Presented May 31, 1920. Mr. Hocken.....*Not printed.*

170e. Return to an Order of the House of 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Mines in Ottawa. 2. Their names and salaries. Presented May 31, 1920. Mr. Hocken. *Not printed.*

170g. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Naval Service in Ottawa. 2. Their names and salaries. Presented May 31, 1920. Mr. Hocken.....*Not printed.*

170h. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of employees in the Department of Justice in Ottawa. 2. Their names and salaries. Presented May 31, 1920. Mr. Hocken. *Not printed.*

170i. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of the Interior in Ottawa. 2. Their names and salaries. Presented June 2, 1920. Mr. Hocken. *Not printed.*

170j. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Railways and Canals in Ottawa. 2. Their names and salaries. Presented June 8, 1920. Mr. Hocken.....*Not printed.*

170k. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Public Works in Ottawa. 2. Their names and salaries. Presented June 10, 1920. Mr. Hocken. *Not printed.*

170l. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Soldiers' Civil Re-establishment in Ottawa. 2. Their names and salaries. Presented June 14, 1920. Mr. Hocken. *Not printed.*

170m. Return to an Order of the House of 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Public Printing. 2. Their names and salaries. Presented June 17, 1920. Mr. Hocken..*Not printed.*

170n. Return to an Order of the House of 19th May, 1920, for a Return showing: 1. Number of persons employed in the Department of Public Health. 2. Their names and salaries. Presented June 17, 1920. Mr. Hocken. *Not printed.*

170o. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Number of employees in the Post Office Department in Ottawa. 2. Their names and salaries. Presented June 18, 1920. Mr. Hocken. *Not printed.*

171. Also, – Return to an Order of the House of the 5th May, 1920, for a copy of a letter signed by twenty-two Senators and Members of the House of Commons representing the Provinces of Alberta, Saskatchewan and Manitoba, addressed to Sir Robert L. Borden, Prime Minister of Canada, dated September, 1919, recommending the shipment of grain by rail via Quebec, also a copy of the answer to such letter as well as the letters sent by J. T. Ross, Esq., President of the Quebec Board of Trade, to the Minister of Railways and Canals during the months of January and February, 1920, concerning export of wheat via Quebec, and of the letters of the Minister of Railways and Canals in answer thereto. Presented May 21, 1920. Mr. Lapointe. *Not printed.*

172. Return to an Order of the House of the 19th May, 1920, for a Return showing: 1. Who the publishers are of the *Montreal Gazette*. 2. Amounts paid to the Montreal Gazette Publishing Company for each of the last fiscal years by the Dominion Government for (*a*) advertising, and (*b*) job printing. Presented May 21, 1920. Mr. Edwards. *Not printed.*

173. Return to an Order of the House of the 7th April, 1920, for a copy of all correspondence, letters and petitions received from the citizens of the Saguenay district and all others in connection with a subsidy from the Department of Trade and Commerce in order to obtain the services of a steamboat ferry between Ste. Catherine and Tadoussac. Presented May 21, 1920. Mr. Savard. *Not printed.*

174. Return to an Order of the House of the 19th March, 1919, for a return showing the names and post office addresses of all postmasters appointed in the Province of Nova Scotia since June 1, 1917, along with a copy of all correspondence with the Post Office Department or with the Civil Service Commission relating to such appointments. Presented May 26, 1920. Mr. Sinclair (Antigonish).....*Not printed.*

175. Return to an Order of the House of the 3rd May, 1920, for a copy of the mortgage deeds for the twenty-five and the thirty-five million dollars granted by the Government of Canada to the Canadian Northern Railway Company in 1918 and 1919. Presented May 26, 1920. Mr. Papineau. *Not printed.*

176. Return to an Order of the Senate dated the 4th instant, for a Return showing all correspondence that may have taken place with the British Admiralty, and with the Naval Mission to India and the Dominion, 1919-20, and also a list of shareholders, officers and directors of the Imperial Oil Company. The Senate.....*Not printed.*

177. Return to an Order of the Senate dated the 5th instant, for a Return of copies of contracts between any Department or Departments of the Government and the owners of the steamship *Lady Evelyn*, in respect to the carriage of mails, passengers and freight between Pictou, Souris, and the Magdalen Islands; and copies of schedules of rates for such service, if such schedules are in the possession of the Government. The Senate. *Not printed.*

CONTENTS OF VOLUME 10—*Continued.*

178. Return of an Order of the House of the 26th May, 1920, for a Return showing: 1. Whether inspectors in charge of terminal elevators, under the Board of Grain Commissioners, have authority to inspect grain, as provided for in the Canada Grain Act. 2. If not, why not. 3. Whether the inspectors issue the requisite inspection certificates, with their signatures attached, to the owners of the grain before delivery is taken. 4. Whether the Chief Inspector or his immediate assistant, in charge of terminal elevators, has authority to change such inspection, without consent of the inspector directly in charge of a terminal elevator. 5. If so, whether this practice is provided for in the Canada Grain Act. 6. Whether inspection certificates, either inwards or outwards, are signed in blank by an officer under the Board of Grain Commissioners, and then filled in afterwards by a clerk. 7. Whether Western Inspection Certificates are signed in blank by the Chief Inspector or one of his officers, and then filled in by an officer in the Eastern Inspection District. 8. Whether the inward and outward inspection at terminal elevators is identically the same. 9. Whether the Canada Grain Act provides for the inspection of grain into terminal elevators, from steamers and barges. 10. If so, whether the inward or outward inspection governs. 11. How much grain the Government elevator, Port Arthur, has handled from September 1, 1919, to May 1, 1920. 12. How much grain [illegible] during the following years: 1914-15, 1915-16, 1916-17, 1917-18, 1918-19. 13. The cost per bushel of handling the grain at the Government elevator, Port Arthur, for the above crop years, and for the period, September 1, 1919, to May 1, 1920. 14. Whether the above cost includes any provision for interest on investment and management. 15. Revenue per bushel for the above period: (*a*) including as revenue, money derived from the sale of overages, screenings and scalpings; (*b*) excluding as revenue, money derived from the sale of overages, screenings and scalpings. 16. Number of employees engaged in the above elevator during the above periods. 17. Name of the senior officer or manager who superintended the operations of the Government elevators under the Department of Trade and Commerce, for the above periods. 18. Whether all the Government elevators carry insurance on grain stored therein, in accordance with law. 19. If not, why the discrimination against the other commercially owned elevators, and on whose authority the law is broken. 20. Section 95, subsection 7, of the Canada Grain Act provides for the confiscation of overages over one-quarter of one per cent to the Government. Whether the Board of Grain Commissioners are keeping strict accounting of all grain going into and out of the terminal elevators, including screenings and scalpings, so as to arrive at the above figures. 21. Whether the Registration Department, under the Board of Grain Commissioners, has full information tabulated showing the gross weight in and gross weight out of terminal elevators. 22. Change made by the Board of Grain Commissioners in the wording of the outward weight certificates. 23. When the change was made. 24. Whether the weight certificate, as worded, was considered faulty up to the time of the change. 25. If not, why the change in the wording was made. 26. Whether the Canada Wheat Board has an officer at Fort William, whose duty it is to check the grades given by the inspection department under the Department of Trade and Commerce, on all grains shipped for and on account of the Canada Wheat Board. 27. If so, how many officers are engaged in this office, their names and salaries. 28. If so, what the necessity is of two Government officials doing the one task. 29. If so, whether the expenses incidental to this office, are deducted from the money which ought rightly be given to the farmers, for the participation certificates issued. 30. Whether the Canada Wheat Board accepts the inspection certificates as issued by the Department of Trade and Commerce, without reservation. 31. Whether the Canada Wheat Board always avails itself of the highest market for all wheat sold for and on account of the producers. 32. Since the Government has taken over the control of the wheat business, whether this has had a tendency to reduce the work of the Board of Grain Commissioners. 33. If so, whether the number of employees under the Board of Grain Commissioners have been reduced, for the purposes of economical administration. 34. Whether the administration of the Canada Grain Act is self sustaining. 35. If not, how the deficits are made up from year to year and on whose authority. 36. Salaries paid to the Secretary of the Board of Grain Commissioners and the Secretary of the Canada Wheat Board. 37. Whether the public terminal elevators at Fort William or Port Arthur purchase and sell grain from time to time, contrary to the Canada Grain Act. 38. If so, on whose authority. 39. Section 48 of the Canada Grain Act provided for the fixing of grades other than statutory grades, by the Grain Standards Board. Whether this Board has fixed the composition of grades of: (*a*) screenings, (*b*) scalpings. 40. If not, why not. 41. If not, who has fixed the composition and grades up to the present time, and on what authority. 42. If fixed, what they are. 43. Whether the original dockages taken from the grain are returned to the producer or the buyer of the warehouse receipt covering the specific parcel. 44. If not, why not. 45. How long the Government, through the Department of Agriculture, has handled standard stock food ex terminal elevators. 46. Whether the venture has been profitable. 47. Surplus or deficit for each year. 48. Price paid to the terminal elevators for the standard stock food basis f.o.b. Fort William. 49. Price received by the Government for the same food on the same basis. Presented May [illegible], 1920. Mr. Stevens. *Not printed, as answer to question.*

179. Memorandum No. 6, respecting work done by the Department of Militia and Defence—European War—from November 1, 1918, to October 31, 1919. Presented by Hon. Mr. Guthrie, May 28, 1920. ..... *Not printed.*

180. Return to an Order of the House of the 12th May, 1920, for a Return showing: 1. Whether the Government operations at the Dog Fish Reduction Works at Clark's Harbour, Nova Scotia, have been discontinued. 2. If so, what disposition has been made of the property. 3. Total Government disbursements including the original cost and loss in operation. 4. On whose report or recommendation the operation was abandoned. 5. Recommendation of the authority advising abandonment. 6. Whether J. B. Fielding, of the Honorary Advisory Council for Scientific and Industrial Research, authorized the report of the chairman on fish waste in Canada as intimated on page 63 of the report of the Administrative Chairman of the Honorary Advisory Council for Scientific and Industrial Research for the year ending March 31, 1919. 7. Whether Mr. Fielding reported with regard to the above-mentioned plant as follows: "At Clark's Harbour I inspected the Government Dog Fish Reduction plant, which though very badly cared for appeared to be in working order, and well worth, in my opinion, retaining for the purpose of the manufacture of fertilizer, though quite unsuitable for the manufacture of food." 8. Consideration given by the Government to Mr. Fielding's report. Presented May 28, 1920. Mr. McCurdy. *Not printed.*

181. Return to an Order of the House of the 25th May, 1920, for a Return showing the total amounts paid for advertisements or newspaper articles relating to voluntary enlistment before the Military Service Act of 1917 was in force: (*a*) to English newspapers in Canada and United States; (*b*) to French newspapers in Canada and United States; (*c*) to English newspapers in the province of Quebec; (*d*) to French newspapers in the province of Quebec. Presented May 28, 1920. Mr. Archambault. *Not printed.*

182. Return to an Order of the House of the 19th March, 1920, for a Return showing: How many of the 22,954 temporary appointments made by the Board of Civil Service Commissioners since the armistice are at present on the pay rolls of the various departments of the Government. Presented May 28, 1920. Mr. Sinclair (Antigonish.) *Not printed.*

183. Return to an Order of the House of the 3rd May, 1920, for a Return showing: 1. How many generals belonging to the permanent force have had to give up their rank during the last six months. 2. How many generals have been promoted since the armistice, and the names of those who are still in the service. 3. How many officers have

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been promoted brigadier general since the armistice, their names, how they are employed, and whether it is the intention to retain them in that rank. 4. How many officers of the permanent force have been pensioned, their names and the amount of pension. Presented May 28, 1920. Mr. Bureau ..... *Not printed.*

184. Final report of the work of Canadian Munition Resources Commission, from November, 1915, to March, 1920, inclusive. Presented by Sir Robert Borden, May 31, 1920 ..... *Not printed.*

184a Copy of Order in Council, P.C. 1192, dated the 20th May, 1920, Dissolving the Canadian Munitions Resources Commission. Presented by Sir Robert Borden, May 31, 1920 ..... *Not printed.*

185. Return to an Order of the House of the 5th April, 1920, for a copy of all correspondence between the Government or any member thereof and the Canadian Press, Limited, and the Canadian Associated Press, with regard to the establishment of an Imperial news service. Presented May 31, 1920. Mr. Robb ..... *Not printed.*

186. Return to an Order of the House of 3rd May, 1920, for a copy of all correspondence, telegrams, petitions or any other documents relative to the appointment of the Deputy Postmaster at Edmonton, Alberta. Presented May 31, 1920. Mr. Mackie (Edmonton.) ..... *Not printed.*

187. Return to an Order of the House of 31st March, 1920, for a copy of all correspondence, letters, telegrams, reports by detectives and others, and every document relating to the theft of Fifty Thousand dollars from the post office in the City of Edmonton, and to George Armstrong, Postmaster of the said post office, as well as to all matters in the said post office so far as all these may relate to the theft of Fifty Thousand dollars. Presented May 31, 1920. Mr. Mackie (Edmonton.) ..... *Not printed.*

188. Return to an Order of the House of the 19th May, 1920, for a Return showing—1. Names and respective salaries of the employees of the Parliamentary Library. 2. How many are graduates of any college in Arts or Library Science. 3. Whether it is the intention of the Government to make any more appointments to the said Library of persons who have not taken a library science course in some recognized college. Presented May 31, 1920. Mr. Wigmore ..... *Not printed.*

189. Return to an Order of the House of the 17th May, 1920, for a Return showing—1. Whether the steamship *Metagama* sailed from Liverpool carrying soldiers and their families on or about the eighth day of February, A.D. 1919. 2. Complaints made to the Militia Department or any other department of the Government as to the condition of said steamer at time of sailing and during said voyage. 3. Complaint made to the Government or any department thereof as to the treatment accorded to said soldiers, their wives or families during said voyage. 4. Whether a delegation from the City of St. John appeared before a committee of the Cabinet on or about the 27th day of February, 1919, protesting against alleged ill treatment of said soldiers and their families during the said voyage. 5. If so, who comprised said delegation and what members of the Government acted on said Cabinet committee. 6. Whether the Government took any action as a result of said conference. If so, what action, and the result of same. 7. Whether said delegation filed affidavits or solemn declarations of passengers as to the condition of the steamer and treatment accorded said passengers during said voyage. 8. If so, whether the Government held an investigation concerning said complaints. 9. Result of such investigation. Presented June 2, 1920. Mr. Copp ..... *Not printed.*

190. Return to an Order of the House of the 19th May, 1920, for a Return showing.—1. Total amount of sick mariners' dues collected from shipping entering Canadian ports for each of the years 1912, 1913, 1914, 1915, 1916, 1917, 1918 and 1919. 2. Amount expended by the Government in assistance to sick or distressed mariners during each of said years. 3. Number of officials of the Marine Department in Ottawa engaged exclusively on duties connected with collection, distribution and administration of sick mariners' dues. 4. Number of officials of Marine Department transferred to Health Department in connection with sick mariners' dues. Presented June 2, 1920. Mr. Stevens ..... *Not printed.*

191. Return to an Order of the House of the 10th March, 1920, for an order showing—1. Number of dismissals of Civil Servants made in the cities of the Dominion of Canada since the 1st of January, 1915. 2. Number of appointments which have taken place or have been made of Civil Servants in the cities of the Dominion of Canada since January, 1915. Presented June 2, 1920. Mr. Mackie (Edmonton.) ..... *Not printed.*

192. Return to an Order of the House of the 10th March, 1920, for a return giving a list of the lawyers from the province of Quebec who acted: (*a*) as public representatives; (*b*) military representatives; (*c*) in the office of the registrars; and (*d*) in the office of the Central Appeal Judge, during the administration of the Military Service Act, showing the amount paid to each of the said lawyers. Presented June 4, 1920. Mr. Archambault ..... *Not printed.*

193. Copies of Orders in Council, P.C. 1022, dated 8th May, 1920, P.C. 1065, dated 15th May, 1920, and P.C. 1280, dated 4th June, 1920, covering the Cost of Living Bonus for employees in the Civil Service of Canada for the fiscal year, 1920–21. Presented by Hon. Mr. Rowell, June 7, 1920 ..... *Not printed.*

194. Copies of Orders in Council in respect to the Federal Housing Scheme, as follows:—P.C. 639, of March 27, 1920, authorizing an increase in the maximum amounts of the loans which may be granted under Class 4 of the Federal project. P.C. 375, of February 20, 1919, approving the General Scheme of Housing of the Province of Ontario. P.C. 2201, of October 30, 1919, approving certain amendments to the British Columbia Housing Scheme approved on May 1, 1919, P.C. 907. P.C. 1090, of May 19, 1920, approving certain amendments to the General Housing Scheme of the Province of Quebec. P.C. 1233, of May 31, 1920, approving the General Scheme of Housing of the Province of Saskatchewan. Presented by Hon. Mr. Rowell, June 7, 1920 ..... *Not printed.*

195. Return to an Order of the House of the 5th May, 1920, for the production of copies of all letters, telegrams, papers and correspondence exchanged between the Department of Agriculture and others in reference to the establishment of a Demonstration Farm at Baie St. Paul, in the County of Charlevoix. Presented June 7, 1920. Mr. Cauchon. ..... *Not printed.*

196. Return to an Order of the House of the 8th April, 1920, for a Return showing—1. What is, or has been, the numerical strength of the staff of the Department of Public Works, by districts, throughout the Dominion of Canada since the 1st of January, 1915, to the 1st of January, 1920. 2. The names of the employees. 3. What salary is paid, or was, to each employee of the Department during this period. 4. Which of said employees could have been discharged since January, 1917. 5. How many employees in each district can now be dispensed with. 6. The expenditure in each of said districts during the entire period. Presented June 8, 1920. Mr. Mackie (Edmonton.) ..... *Not printed.*

CONTENTS OF VOLUME 10—*Continued.*

196. Supplementary Return to an Order of the House of the 8th April, 1920, for a Return showing:—1. What is, or has been, the numerical strength of the staff of the Department of Public Works, by districts, throughout the Dominion of Canada since the 1st of January, 1915, to the 1st of January, 1920. 2. The names of the employees. 3. What salary is paid, or was, to each employee of the Department during this period. 4. Which of said employees could have been discharged since January, 1917. 5. How many employees in each district can now be dispensed with. 6. The expenditure in each of said districts during the entire period. Presented June 17, 1920. Mr. Mackie (Edmonton). . . . . *Not printed.*

197. Return to an Order of the House of the 10th March, 1920, for a copy of all letters, telegrams, documents, petitions, reports, received by the Department of Railways and Canals and Canadian National Railways, and the correspondence exchanged between this Department and different persons and public bodies in reference to the curtailing of the railway service along the new line of the Quebec and Saguenay Railway between Quebec and Murray Bay since the 1st of November, 1919. Presented June 8, 1920. Mr. Casgrain. . . . . *Not printed.*

198. Return to an Order of the House of the 7th April, 1920, for a copy of all correspondence, letters and telegrams in connection with the granting of an allowance by the Post Office Department for a regular postal ferry service by motor yacht between Ste. Catherine and Tadoussac. Presented June 8, 1920. Mr. Savard *Not printed.*

199. Return to an Order of the House of the 15th March, 1920, for a copy of all letters, petitions, telegrams and other documents relating to the retention in office, as a Fishery Overseer, of John A. Dillon, of Guysborough, N.S. Presented June 8, 1920. Mr. Sinclair (Antigonish). . . . . *Not printed.*

200. Return to an Order of the House of the 12th April, 1920, for a copy of all documents, letters, telegrams and all other papers and correspondence exchanged between the Government or any department or commission thereof and the Government of the United States, the State of New York, the State of Vermont, or any other body, and a copy of any evidence given before any commission, referring to seine or net fishing in Mississquoi bay. Presented June 8, 1920. Mr. Kay . . . . . *Not printed.*

201. Return to an Order of the House of the 5th May, 1920, for a Return showing amount of money spent by the Dominion Government since Confederation on improvements in the harbours of Halifax, St. John, Quebec, Montreal, Toronto, Hamilton, Port Arthur, Victoria and Vancouver. Presented June 8, 1920. Mr. Foster (York). *Not printed.*

202. Orders of the Director of Coal Operations—Nos. 1 to 144, inclusive. Presented by Hon. Mr. Meighen, June 8, 1920. *Not printed.*

203. Return to an Order of the House of the 22nd March, 1920, for a Return showing:—1. Number of automobiles valued under $1,000 imported into Canada in each of the years 1918 and 1919. 2. Number valued at between $1,000 and $2,000. 3. Number at a greater valuation than $2,000. 4. Duty collected on these automobiles. 5. The duty collected on parts of automobiles imported during the years 1918 and 1919. 6. On what number of automobiles valued at less than $1,000 excise duty was paid in the years 1918 and 1919. 7. On what number of automobiles valued at between $1,000 and $2,000 excise duty was paid in the same years. 8. On what number of automobiles valued at over $2,000 excise duty was paid in the same years. 9. The amount of such excise duty. Presented June 9, 1920. Mr. Ross . . . . . *Not printed.*

204. Return to an Order of the House of the 5th May, 1920, for a copy of all papers, documents and letters in connection with Dr. Michel Fiset, of Quebec City, appointment by Order in Council, dated 18th April, 1914, as parcel post supervisor in Quebec City, with a salary of $2,800 a year. Presented June 10, 1920. Mr. Lavigueur . . *Not printed.*

205. First Annual Report of the Board of Commerce of Canada, dated 31st May, 1920; and also,—Copy of Order in Council, P.C. 1264, dated 1st June, 1920, submitting the above Report for His Excellency's information. Presented by Sir Robert Borden, June 10, 1920. . . . . *Not printed.*

206. Copy of Order in Council, P.C. 2529, dated December 18, 1919, regarding the distribution to the Provinces of the sum of $200,000, which was placed at the disposal of the Department of Health for combatting venereal diseases. Presented by Hon. Mr. Rowell, June 11, 1920. . . . . *Not printed.*

207. Copy of Agreement between the Chief and Principal men of the Chippewas of Sarnia Band of Indians and His Majesty the King regarding the surrender of the Sarnia Indian Reserve to the Government of Canada, dated at Sarnia, Ont., 10th December, 1919. Presented by Hon. Mr. Meighen, June 14, 1920 . . . . *Not printed.*

208. Return showing:—1. How many sittings were held by the Railway Commission to fix compensation for damages caused by the passing of the Canadian Northern through North Bay. 2. Who presided over the said sittings. 3. The awards made. 4. To whom they were paid. 5. The total cost of the said sittings. 6. The amount paid for counsel fees. 7. What amount was paid for witnesses. 8. To whom the amounts were paid. Presented June 16, 1920. Mr. McDonald . . . . . *Not printed.*

208a. Supplementary Return to an Order of the House of the 16th June, 1920, for a Return showing:—1. How many sittings were held by the Railway Commission to fix compensation for damages caused by the passing of the Canadian Northern through North Bay. 2. Who presided over the said sittings. 3. The awards made. 4. To whom they were paid. 5. The total cost of the said sittings. 6. The amount paid for counsel fees. 7. What amount was paid for witnesses. 8. To whom the amounts were paid. Presented June 21, 1920. Mr. McDonald. *Not printed.*

209. Return to an Order of the House of 2nd June, 1920, for a copy of all papers, documents, telegrams and reports concerning the indemnity paid to the widow and children of J. L. A. Forbes, killed at Aston Junction, the 11th of September, 1918, while on duty as brakeman on the Government railways. Presented June 17, 1920. Mr. Bourassa. *Not printed.*

210. Partial Return to an Order of the House of 5th May, 1920, for the production of copies of all Rules of Court made by the different Superior Courts of Criminal Jurisdiction of Canada according to the provisions of Section 576 of the Criminal Code. Presented June 17, 1920. Mr. Casgrain . . . . *Not printed.*

211. Return to an Order of the House of 19th March, 1920, for a copy of all correspondence between the Prime Minister of Canada and the Prime Minister of Great Britain under authority of a resolution of the Imperial War Cabinet of July 30, 1918. Presented June 17, 1920. Mr. Fielding. . . . . *Not printed.*

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212. Copy of Order in Council, P.C. 1361, dated 16th June, 1920, accepting the resignation of Mr. W. F. O'Connor, as a Commissioner of the Board of Commerce of Canada, and also, copy of letter communicating the said resignation. Presented by Sir Robert Borden, June 17, 1920 .. *Not printed.*

213. Return to an Order of the House of the 25th May, 1920, for a copy of all correspondence, petitions, reports and other documents regarding the establishment of rural mail routes in the parishes of Champlain, Batiscan and St. Luc, in the County of Champlain, Quebec. Presented June 18, 1920. Mr. Desaulniers..... *Not printed.*

214. Return to an Order of the House of the 19th April, 1920, for a Return showing —1. Number of non Canadian born in the different Departments of the Government where the services of Engineers, Architects, Draughtsmen, etc., are required. 2. Number of non Canadian born Engineers, Architects, Draughtsmen, etc., who have been given positions within the last five years in the different departments of the Government. 3. Number of Canadian born Engineers, Architects, Draughtsmen, etc., who have obtained similar positions within the last five years. 4. Whether American Engineers were given preference in obtaining such positions and appointed over the heads of Canadian born Engineers, Architects, etc. Presented June 21, 1920. Mr. Casgrain *Not printed.*

215. Return to an Order of the House of the 19th May, 1920, for a Return showing —1. Total amount of drawback for the fiscal year ending March 31, 1920, paid to textile manufacturers on (*a*) raw cotton, and (*b*) cotton yarns. 2. Total amount of drawback for the fiscal year ending March 31, 1920, paid to textile manufacturers on (*a*) raw wool, and (*b*) woollen yarns. Presented June 21, 1920. Mr. Reid (Mackenzie) *Not printed.*

216. Copy of Order in Council number 1258, passed on the 31st day of May, 1920, concerning a contract entered into with Griffenhagen and Associates at a rate of $10,000 per month. Presented June 21, 1920. Mr. Lemieux *Not printed.*

217. Statement showing number of Employees in the several Departments of the Public Service for the fiscal year ending March 31, 1921, segregated in accordance with the new Classification Schedules. (Subject to possible amendment in some instances as the result of appeals pending but not yet finally disposed of.) Presented by Hon. Mr. Powell, June 23, 1920 ... *Not printed.*

218. Return to an Order of the House of the 31st May, 1920, for a copy of all letters, telegrams and other documents relating to the closing of the life saving station at Richibucto Beach, in the county of Kent, N.B. Presented June 24, 1920. Mr. Léger . . . . *Not printed.*

219. Return to an Order of the House of the 15th April, 1920, for a Return showing —1. When the work under the present scheme of development of Toronto Harbour was commenced. 2. Miles of docks included in this scheme and how much of this work has been completed. 3. Depth of water provided by this scheme. 4. Expenditure by the Dominion Government on this scheme for each year since the commencement of the work. 5. Number of ships and tonnage entered and cleared from the harbour each year since 1912. 6. Amount of water borne freight imported and exported to and from this harbour since 1912. 7. What reduction, if any, in freight rates on goods entering and leaving Toronto by rail has been secured by reason of the harbour improvements in question. 8. What the extent of land reclamation is in connection with this scheme. 9. Who the owner of this land is and what the policy of the Government is relative thereto. 10. Depth of the St. Lawrence canals and of the Welland canal. Presented June 24, 1920 Mr. Campbell .. .. . *Not printed.*

220. Return to an Order of the House of 12th May, 1920, for a copy of all letters, telegrams, correspondence, documents and other papers exchanged between the Dominion Government, or any official thereof, or the officials of the Canadian Government Railways and the Government of New Brunswick, or any official of the said Government, or any of the officials of the St. John and Quebec Railway Company with regard to the procuring of running rights for the trains of the St. John and Quebec Railway over the Canadian Pacific Railway between Westfield Beach and St. John. Also of all papers, documents and correspondence exchanged between the Dominion Government or any officials thereof or any officials of the Canadian Government Railways and the Canadian Pacific Railway Company or any official thereof, regarding the securing of the said running rights. Presented June 20, 1920 Mr. Caldwell . . . . . *Not printed.*

221. Return to an Order of the House of the 25th May, 1920, for a copy of all telegrams, letters and other documents relating to the closing of the Life Saving Station at Cheticamp, Inverness County, N.S. Presented June 26, 1920. Mr. Chisholm..... *Not printed.*

222. Report of the Administrative Chairman of the Honorary Advisory Council for Scientific and Industrial Research of Canada, for the year ending March 31, 1920. Presented by Sir George Foster, June 26, 1920..... *Not printed.*

223. Ordinances of the Yukon Territory, passed by the Yukon Council in the year 1920. The Senate *Not printed.*

224. Return to an Order of the House of the 23rd June, 1920, for a copy of letters, telegrams, petitions and documents of all kinds which passed between the Department of Public Works and any person during the years 1918, 1919, 1920, in any way referring to improvements made on Grand Etang Harbour, N.S. Presented June 30, 1920. Mr. Chisholm .. *Not printed.*

225. Return to an Order of the House of the 28th April, 1920, for a Return showing: 1. Number of private, assistant private, joint and associate secretaries appointed to members of the Cabinet, Chairman or Members of Commission since 1911, and how much money has been paid to each of them respectively. 2. Number of private, assistant private, joint and associate secretaries each of the Members of the Cabinet actually have. 3. Their names and respective salaries. 4. Number of employees in the office of each member of the Cabinet, their names and respective salaries. Presented June 30, 1920. Mr. Dechene..... *Not printed.*

226. Return to an Order of the House of the 7th June, 1920, for a Return showing amounts paid to the following newspapers during the fiscal year 1919 and 1920 respectively for (*a*) advertising, (*b*) printing: *Montreal Gazette* and The Gazette Printing Company, *Montreal Daily Star*, *The Globe*, *The Mail and Empire*, Toronto, *The Telegram*, Toronto, *The Star*, Toronto, *The Journal* and *The Journal Press*, Ottawa, *The Citizen*, Ottawa. Presented June 30, 1920. Mr. Cowan..... *Not printed.*

227. Return to an Order of the House of the 8th October, 1919, for a copy of all letters, telegrams, petitions, memorials or other papers or documents received by the Right Honourable the Prime Minister or any member of the Government during the year 1919 relating to the appointment of a Lieutenant-Governor for Prince Edward Island and the replies thereto. Presented June 30, 1920. Mr. Sinclair (Antigonish).

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228. Return to an Order of the House of the 26th May, 1920, for a Return showing 1. Who are or who were the men engaged by the Civil Service Commission to re-classify the Civil Service at Ottawa. 2. When they were employed and at what rate of wages. 3. Whether they are still in the service of the Civil Service Commission or are any of them in said service. 4. How much was paid to each of such assistants from date of engagement up to the end of April, 1920. 5. Total amount paid to the men so engaged from the date of the engagement to the end of April 1920. Presented June 30, 1920. Mr. McKenzie ..... *Not printed.*

229. Return to an Order of the House of the 29th September, 1919, for a Return showing the cost of the Military Hospital at Saint Anne de Bellevue; the number of patients received and treated therein, to date; expenses to date for maintenance as to, (*a*) coal; (*b*) wood; (*c*) electricity; (*d*) food; (*e*) lingerie; (*f*) remedies; (*g*) social events and recreations; the cost of theatre installed in hospital; names of physicians, officers, nurses and privates of the general services, showing those who went to the front, and those who did not, their nationality and religion; salaries paid to each of the said persons; and the names and salaries of the chaplains attached to the hospital. Presented June 30, 1920. Mr. Archambault ..... *Not printed.*

230. Return to an Order of the House of the 14th June, 1920, for a Return showing the names of the societies which have filed copies of policies complying with the provisions of the Insurance Act, 1910, Geo. V, Ch. 32, Section 115; the names of the societies which have neglected to file copies of policies as required by said Act and to whom licenses have been issued for the current year; and names of any societies from whom licenses have been withheld. Presented June 30, 1920. Mr. Archambault ..... *Not printed.*

231. Halifax Graving Dock, *re* expropriation of The Senate ..... *Not printed.*

DOCUMENTS

RELATING TO

THE CONSTITUTIONAL HISTORY OF CANADA

CANADIAN ARCHIVES

DOCUMENTS

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THE CONSTITUTIONAL HISTORY OF CANADA

1759-1791

Selected and Edited with Notes by

ADAM SHORTT

AND

ARTHUR G. DOUGHTY

Printed by Order of Parliament

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1918

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PREFACE TO SECOND EDITION

In issuing the second edition of the Constitutional Documents, 1759–1791, it has been found necessary to divide the volume into two parts. This is owing partly to the additional documents included, but chiefly to the improved form in which it is printed. While the original plan of the work, as indicated in the introduction, has not been departed from, a few additional documents and some extensions of the notes have been found desirable.

A few documents, not available at the time of printing the first edition have since been discovered. Among these the most important are the Report of the Board of Trade of September 2nd, 1765 (p. 237) and the Discussion of Petitions and counter-Petitions *re* Change of Government in Canada (p. 970), referred to in the despatch of Grenville to Dorchester of 20th October, 1789 (p. 969). Since the first part of this edition was printed, the full text of Lord Thurlow's report has been discovered in the Archives of the Court House of Montreal. While it is to be regretted that it was not discovered in time to be included in this issue, it may be observed that the abridgment of it which is given (p. 437), as taken from Christie's History of Lower Canada, contains nearly all that is essential in Thurlow's argument. The portions omitted are chiefly summaries of the earlier documents submitted to the Law Officers as the basis for their report, and which are reproduced in full in the earlier portion of this work. In the latter part of the report, certain portions of Thurlow's argument were omitted by Christie, but the most important sections are given in full. In any case, the full text may now be consulted, either at the Court House, Montreal, or at the Archives in Ottawa.

Among the new documents introduced is the Draught of an Ordinance for establishing Courts of Justice in the Province of Quebec, 1775. This is given as indicating "His Majesty's Gracious Intentions with respect to the plan of Judicature that is to be established." It is of special interest, with reference to the policy of the Quebec Act, on the one hand, and, on the other, the actual line of development in the administration of justice after the Quebec Act. The Commissions for a Court of Appeals and for a Court of Civil Jurisdiction, in 1776, which serve to fill the gap in the administration of justice during the invasion of Canada, are also new documents.

The rather important constitutional issues involved in the dismissal of Chief Justice Livius having been dealt with in the first edition chiefly in extensive foot-notes, it was deemed advisable to give in full the Report of the Committee of Council to which was referred the whole case. This is given at p. 698. Growing out of this situation was the action taken by Governor Haldimand in withholding from the Council certain articles of

his Instructions which he was directed to lay before them. The review of his conduct on this and other matters by the Lords of Trade and Plantations, in 1781, is also given in full as essential to an understanding of the issues raised (see p. 722). Among the papers received since the issue of the first edition, two documents, "A Plan of General Instructions for Sir G. Carleton" and "Draught of Particular Instructions to Carleton," leading up to the General Instructions of 1786, are also included as throwing light upon these important instructions.

Apart from some necessary changes and extensions in the foot-notes, the only other important alterations will be found in the references to the Journals of the Legislative and Executive Councils of Quebec. When the first edition was prepared the only copies of the Minutes of Council available were those in the "Q" series, which were given in the Minutes as sent from Canada to England and preserved in the Public Record Office. Within the past few years, however, the original Minute Books of the Councils were discovered in Canada among the records of the Governor General's Office, and have been transferred to the Public Archives. The text of all extracts from the Minutes, as given in the Constitutional Documents, has been read and revised from these originals. In consequence, the references have been changed to conform to the new sources. At the same time the former references to the "Q" series are also retained in order to preserve connection with quotations which have been made from the first edition of this work. Similar observations will apply to certain petitions, etc., the originals of which have lately come to light and are now deposited in the Archives. In each case, while the text is revised in accordance with the originals, references are given to the copies as formerly known, as well as to the originals recently discovered. The two parts in which the original volume now appears are paged consecutively, hence the table of contents in the first part and the index in the second part refer to the whole work.

INTRODUCTION

Already the accumulation of materials relating to Canadian history secured by the Canadian Archives is very voluminous, and of such range and value that it will henceforth be impossible to make any considerable contribution to Canadian history without drawing upon these resources.

Now that these collections are adequately housed in a separate building, it is possible for all who wish to consult them to do so with facility and comfort. However, in a country of such vast extent as Canada, it requires both time and means for more than a very limited number to avail themselves of these valuable accumulations at first hand. Hitherto, also, the pressing demands of the more immediate needs of life leave, for most, little leisure for the cultivation of those studies connected with the origin and significance of our national institutions, the right comprehension of which may have an important bearing on the future stability of national life.

In order that the character of the records accumulated by the Archives department may be made known to the public, and that the advantages to be derived from an acquaintance with these materials may be equally shared by teachers, students and citizens of Canada generally, in all parts of the country, it has been considered advisable to select and publish in a connected form, a number of the more important and representative documents relating to specific features of Canadian national development. The present volume is the first of a short series which will embody the leading documents relating to Canadian constitutional history. The collection is intended to furnish, in the shape of authentic copies of original documents, a survey of the gradual development of the Canadian system of government and of the various forces which, in co-operation or conflict, had much to do with determining the lines along which our destiny as a nation was to be unfolded. It has been sought to make the series of documents sufficiently full and representative of all the constituent elements and interests of the country, to furnish a basis for an intelligent and independent judgment on the part of those making a careful study of them; while the notes and references will enable the reader to follow the natural connections of the documents with each other and with a still wider range of first hand materials, most of which will also be found in the collections of the Canadian Archives.

This first volume contains only documents relating to the central portion of Canada known at the time as the Province of Quebec, between the period of the Cession and the passing of the Constitutional Act in 1791. In order to present a natural historical development of the constitution the documents are arranged as nearly as possible in chronological order. They consist of both primary and secondary materials. The primary docu-

ments are preceded and followed by a number of closely related papers, such as petitions, reports, letters and proceedings indicative of the forces which prepared the way for the more formal expressions of the general policy or system of government. These in turn are followed by other secondary documents showing the practical consequences of the adoption of this or that policy or system of government.

The documents and papers may be classified as follows, the first two sections covering the central or pivotal documents.

I. Terms of Capitulation and Treaties, determining the limits of the colony and the conditions under which it was ceded or held.

II. Royal Proclamations or British Statutes determining the basis and character of the government to be established and maintained in the colony.

III. Commissions and Instructions issued to the various Governors, giving in further detail the system of government and administration to be established in the colony, and the general policy to be followed.

IV. Such ordinances or laws passed by the local legislative body as prescribe, under the authority of Royal Proclamations or British Statutes and Instructions to the Governors, the courts of law and the general system of justice to be administered in the colony.

V. Special reports, of a more or less official nature, from various Boards, or servants of the Crown in Britain or Canada, setting forth the actual conditions of the country from a constitutional point of view, and proposing lines of policy or necessary changes in the constitution of the country.

VI. A body of miscellaneous papers furnishing the connecting links and general constitutional atmosphere of the central documents of the foregoing classes. These consist of

(*a*) Petitions and counter-petitions expressing the wishes and aspirations of the inhabitants of the country, or of those in Britain having special interests in Canada, as to the form of government, the system of laws, and the general administration of justice.

(*b*) Minor reports from the Governors and other officials in the colony, Memorials and Proceedings setting forth the political condition of the country, Minutes of Council and Reports of Committees of Council relating to the system of government or administration.

(*c*) Correspondence, official, semi-official, or private, between the Canadian Governors and the British Secretaries of State, and between these and others occupying official or at least influential positions in Canada or Britain, discussing, shaping, or advising as to the policy of government, or the condition and wishes of the people.

In considering the documents presented under these various classes, the question of most interest to those wishing to make use of the volume will relate to the principle or principles upon which the documents here given were selected from the general mass of materials bearing upon the constitu-

tional development of Canada during the period covered. In answering this question we may take up the sections in order.

The documents which fall within the first three classes leave very little room for choice, as they are limited in number and definite in character. The first section includes the Capitulations of Quebec and Montreal, and the two Treaties of Paris of 1763 and 1783. Section II includes the Proclamation of 1763, the Quebec Act and the Constitutional Act. Section III includes the Commissions and Instructions to Governors, etc. In order to economize space, since the Commissions cover, though only in a partial degree, much the same ground as the Instructions, samples only are given to indicate their nature. Special features, such as Dorchester's Commission in 1786 to be Governor and Commander-in-Chief in all the British North American Colonies, are fully indicated in the correspondence and notes. Where the Instructions to one Governor are continued for his successor with little or no alteration, they are not repeated in full, only the alterations or additions being given. However, where important changes in policy were being discussed or had taken place, as in 1768, 1775, and 1786, the Instructions are given in full, even though considerable sections of them remain unchanged, it being important at such periods to see the relation of the old to the new elements. This section includes also various additional or special Instructions which were issued to the Governors during their periods of Office.

Section IV covers the series of Provincial Ordinances from 1764 to 1789, establishing the Provincial Courts and prescribing, subject to the British Statutes and Instructions, the system of law and procedure to be observed therein.

In Section V there is more choice of materials, though there is little difficulty in determining which are the most essential documents, as that is largely indicated by the importance attached to them alike at the time and afterwards, as evidenced by the repeated references to them in the other documents and correspondence of the period. The only difficulty here has been in procuring authentic copies of all the documents of this description referred to. Though the great majority of these reports have been discovered among the State Papers, or in other authentic form, a few of them have not as yet been secured. The Reports of Carleton and Hey in 1769 have not yet been found, though the substance of the former is fairly well indicated in the criticism of it made by Mr. Maseres (see p. 258). This indicates that the Governor had simply recapitulated in the Report his views as frequently expressed to the Home Government in his correspondence with the Secretaries of State, Lords Shelburne and Hillsborough. It has also been impossible up to the present to trace among the State Papers the reports on the Government of Quebec made by Solicitor-General Wedderburn and Attorney-General Thurlow, in 1772 and 1773, though a supplement to the Solicitor-General's report containing its essential features has been found among the Dartmouth Papers. We have

be classified as follows: (*a*) To furnish the necessary references to the sources of the documents which are reproduced; (*b*) To furnish references, either within or without the present volume, to all other papers referred to in the documents here reproduced; (*c*) To provide references to other first-hand materials, and to give quotations from them, where not too extensive, as to the essential links connecting or explaining the documents which have been selected and reproduced; (*d*) To indicate the official positions held by the leading parties between whom the correspondence which is given had taken place.

A number of the central and more formal documents, such as Capitulations, Treaties, and Instructions have already appeared in various forms, though not always in authentic versions. Others have appeared in volumes which are now very difficult to obtain and are rarely to be met with in Canada outside of a few of the best equipped libraries. A large part of the volume, however, consists of important documents which have not hitherto been published, and the very existence of a number of which was hardly suspected. These throw much new light on some of the most essential features of Canadian constitutional history.

In every possible case documents are taken from the most authentic sources available, and are reproduced exactly as they are found, without any attempt to correct even the most obvious errors of spelling, punctuation or grammatical form. It is evident that any uncertainty due to slips and errors in the original documents would only be increased were it understood that attempts had been made to amend them.

The majority of the papers here reproduced are contained in the Canadian Archives, and consist of copies from the originals in the Public Record Office in London. In some cases, however, the papers in the Public Record Office are themselves duplicates which were furnished at the time of framing the originals. In almost every case these documents have been again carefully compared with the originals before being reproduced in this volume, and the proof has been read by Mr. R. Laidlaw and Miss M. Robertson.

It will be observed that the papers are drawn mainly from three series, which are designated by the letters Q, B, and M. This method of classification was originally adopted by the Canadian Archives as an arbitrary though convenient mode of reference, otherwise these letters have no special significance. The index to the volume was prepared by Miss M. Robertson of the Archives Branch.

ADAM SHORTT
ARTHUR G. DOUGHTY

DOCUMENTS RELATING TO THE CONSTITUTIONAL HISTORY OF CANADA

1759–1791

ARTICLES OF CAPITULATION, QUEBEC.[1]

La Capitulation demandée d'autre part a été accordée par Son Excellence General Townshend Brigadier des armees de sa Majeste Britanique en Amerique de la Maniere & aux conditions exprimées cy dessous

Articles de Capitulation demandés Par M[r] de Ramzay Lieutenant Pour Le Roy Commandant Les hautes et Basse Ville de Quebec Ch[er] de L'ordre Royal & Militaire de S[t] Louis à Son Excellence Monsieur Le General des troupes de Sa Majesté Britannique.

[1] The Articles of Capitulation of Quebec as here given are taken from a photographic reproduction of the original document, signed by Admiral Charles Saunders, Brigadier General George Townshend and M. de Ramesay, which was enclosed in Townshend's despatch to Pitt of the 20th Sept., 1759, giving the official account of the capture of Quebec. The despatch and the enclosed Articles of Capitulation are preserved in the Public Record Office, London, in Vol. 88 of the papers relating to 'America and the West Indies.' In his despatch General Townshend thus alludes to the Capitulation:—'The 17[th] at noon before we had any Battery erected or could have had any for 2 or 3 days. A Flagg of Truce came out with proposals of Capitulation, which I sent back again to Town allowing them four Hours to capitulate or no farther Treaty. * * The French Officer returned at night with Terms of Capitulation which with the Admiral were consider'd, agreed to, and signed, at 8 in y[e] morning y[e] 18[th] instant. The Terms you find we granted will I flatter myself be approved of by his Majesty considering y[e] Enemy assembling in our Rear, & what is far more formidable The very Whet & Cold Season which threatened our Troops with Sickness & the fleet with some Accident. It had made our Road so bad we could not bring up a Gun for some time, add to this y[e] advantage of entring y[e] Town with the walls in a Defensible State, and y[e] being able to put a Garrison there strong enough to prevent all Surprise. These I hope will be deem'd a sufficient Consideration for granting y[e] them. Terms I have the Honour to propose to you.'

Admiral Saunders, in a letter to Pitt at the same time, also states, 'I enclose you a Copy of the Articles of Capitulation.' Negotiations for the capitulation appear to have commenced immediately after the battle of the Plains on the 13th of September, as Montcalm addressed a letter to Townshend on that day, in which he acknowledged that he was compelled to surrender. On the 14th, M. de Ramesay received a communication from the British Commander referring to the arrangements for carrying out the truce; but the death of Montcalm which occurred on the same day seems to have interrupted the proceedings. There are several variations in the wording alike of the French text and of the English Translation, or version of the Articles of Capitulation, as given by different authorities. Some of these are from French sources, others from English. As indicative of the variations in British official sources we may take the following versions of the introductory clauses of the Capitulation:

Articles de Capitulation demandées par M[r] de Ramzay Lieutenant pour le Roy, Commandant les Hautes et Basses Villes de Québec, Chevalier de l'Ordre Royal et Militaire de S[t] Louis, à Son Excellence Monsieur le Général des Troupes de Sa Majesté Britannique: La Capitulation demandée d'autre Part a été accordée par Son Excellence General Townshend, Brigadier des Armes de Sa Majesté Britannique en Amerique, de la Maniere et aux Conditions exprimées cy-dessous:

(Papers relative to the Province of Quebec, ordered to be printed 21st April 1791. Copied in Canadian Archives, Q. 62 A, Pt. 1, p. 103.)

ARTICLES DE CAPITULATION

Demandée par M. de Ramsay, Lieutenant pour le Roi, commandant les Hautes et Bassevilles de Québec, Chef de l'ordre militaire de St. Louis, à son Excellence le Général des Troupes de sa Majesté Britannique.—"La Capitulation demandée de l'autre part, a été accordée par son Excellence l'Amiral Saunders, et son Excellence le Général Townshend, &c. &c. &c. de la manière et condition exprimée ci-dessous."

(Capitulations and Extracts of Treaties Relating to Canada; with His Majesty's Proclamation of 1763, establishing the Government of Quebec. p. 3. Printed by Willian Vondenvelden, Law Printer to the King's Most Excellent Majesty, 1797.)

1

La garnison de la ville Composée des troupes de terre de marinne et matelots sortiront de la ville avec armes et Bagages Tambour Battant meche allumée avec deux pieces de Canon de france Et douze Coups atirer pour chaque piece Et sera Embarqué le plus Commodement possible pour etre mise en france au premier port.

ARTICLE PREMIER

Mr de Ramzay demande Les honneurs de la guerre Pour sa Garnison & qu'Elle soit ramenée à L'armée En sureté par Le Chemin Le plus Court, avec armes, bagages, six pieces de Canon de fonte, Et deux mortiers ou obusiers et Douse coups à tirer par piece.

2.

Accordé en mettant les armes Bas.

ART. 2.

Que Les habitans soient Conservés dans La possession de leurs maisons, biens, effets et privileges.

3.

accordé—

ART. 3.

Que Les dits habitans ne pourront etre recherchés pour avoir porté Les armes à la deffense de la ville, attendu qu'ils y ont été forcés & que les habitans des Colonies des deux couronnes y servent Egalement comme Milices.

4.

accordé—

ART. 4.

Qu'il ne sera pas touché aux effets des officiers & habitans absens.

5.

accordé—

ART. 5.

Que les dits habitans ne seront point transferés, ni tenus de quitter Leurs maisons Jusqu'à ce qu'un traité definitif entre S. M. T. C. & S. M. B. aye reglé leur etat.

6.

libre Exercice de la Religion Romaine, sauves gardes accordées a toutes personnes Religieuses ainsi qua Mr Leveque qui pourra venir Exercer Librement et avec Deçence Les fonctions de son Etat lorsqu'il le Jugera a propos jusqu'a ce que la possession du Canada ayt été Decidée entre Sa Majesté B. et S. M. T. C.

ART. 6.

Que L'Exercice de La relligion Catholique apostolique & romaine sera conservé, que L'on Donnera des sauve gardes aux maisons des Ecclesiastiques, relligieux & relligieuses particulierement à Mgr L'Evêque de Quebec qui, rempli de zele pour La relligion Et de Charité pour le peuple de son Diocese desire y rester Constamment, Exercer Librément & avec La Decense que son Etat et les sacrés mysteres de la relligion Catholique Apostolique & Romaine, Exigent, son Authorité Episcopale dans La ville de Quebec Lorsqu'il Jugera à propos, Jusqu'à ce que la possession Du Canada ait Eté decidée par vn traité Entre S. M. T. C. & S. M. B.

7.

accordé—

ART. 7.

Que L'artillerie & les Munitions de guerre seront remises de bonne foy et Qu'il en sera Dressé un Inventaire.

8.

accordé—

ART. 8.

Qu'il En sera un pour Les Malades, blessés, Commissaire, Aumoniers, Medecins, Chirurgiens, Apoticaires & autres personnes Employés au service des hopitaux Conformement au traité d'échange du 6. fevrier 1759. Convenu Entre Leurs M. T. C. & B.

9.

accordé—

ART. 9.

Qu'avant de livrer La porte & l'entrée de La ville aux troupes Angloises, leur general voudra bien remettre quelques soldats pour Etre mis en sauve gardes Aux Eglises, couvents & principales habitations.

10.	ART. 10.
accordé—	Qu'il sera Permis au Lieutenant de Roy commandant dans La ville de Quebec d'Envoyer Informer M[r] Le Marquis de Vaudreuil Gouverneur General de La reddition de La place, Comm'aussi que Ce General pourra Ecrire au Ministre de france pour L'en Informer.
11.	ART. 11.
accordé—	Que La presente Capitulation sera Executée suivant sa forme & teneur sans qu'elle puisse Etre sujette à Inexecution sous pretexte de represailles ou D'vne Inexecution de Quelque Capitulation precedente.

Le present traité a été fait et arreté Double entre Nous au Camp devant Quebec le 18[e] Septembre 1759.

CHA: SAUNDERS.
GEO: TOWNSHEND.
DERAMESAY.

SESSIONAL PAPER No. 18

(*Translation*)[1]

ARTICLES OF CAPITULATION

Demanded by Mr. de Ramsay, the King's Lieutenant, commanding the high and low Towns of Quebec, Chief of the military order of St. Lewis, to His Excellency the General of the troops of His Britannic Majesty.— "The Capitulation demanded on the part of the enemy, "and granted by their Excellencies Admiral Saunders and General "Townshend, &c., &c., &c., is in manner and form hereafter expressed."

I.

Mr. de Ramsay demands the honours of war for his Garrison, and that it shall be sent back to the army in safety, and by the shortest route, with arms, baggage, six pieces of brass cannon, two mortars or howitzers, and twelve rounds for each of them.—"The Garrison of the town, composed of "Land forces, marines and sailors, shall march out with their arms and "baggage, drums beating, matches lighted, with two pieces of french cannon, "and twelve rounds for each piece; and shall be embarked as conveniently "as possible, to be sent to the first port in France."

II.

That the inhabitants shall be preserved in the possession of their houses, goods, effects, and privileges.—"Granted, upon their laying down their arms."

III.

That the inhabitants shall not be accountable for having carried arms in the defence of the town, for as much as they were compelled to it, and that the inhabitants of the colonies, of both crowns, equally serve as militia.— "Granted."

IV.

That the effects of the absent officers and citizens shall not be touched. —"Granted."

V.

That the inhabitants shall not be removed, nor obliged to quit their houses, until their condition shall be settled by their Britannic, and most Christian Majesties—"Granted."

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[1] The French text of the Articles of Capitulation being the official one, there is no authoritative English version. The English text here given follows that contained in "Capitulations and Extracts of Treaties Relating to Canada," already cited, and which corresponds to the French text there given. This version, as regards the British concessions, is practically identical with that contained in Knox's "Historical Journal of the Campaigns in North America." Vol. II, p. 87, as also in the "Annual Register" for 1759, p. 247. The version contained in "Papers Relative to the Province of Quebec," of 1791, differs slightly from these.

VI

That the exercise of the Catholic, Apostolic and Roman religion shall be maintained; and that safeguards shall be granted to the houses of the clergy, and to the monasteries, particularly to his Lordship the Bishop of Quebec, who, animated with zeal for religion, and charity for the people of his diocese, desires to reside in it constantly, to exercise, freely and with that decency which his character and the sacred offices of the Roman religion require, his episcopal authority in the town of Quebec, whenever he shall think proper, until the possession of Canada shall be decided by a treaty between their most Christian and Britannic Majesties.—"The free exercise "of the Roman religion is granted, likewise safeguards to all religious persons, "as well as to the Bishop, who shall be at liberty to come and exercise, freely "and with decency, the functions of his office, whenever he shall think proper. "until the possession of Canada shall have been decided between their "Britannic and most Christian Majesties."

VII.

That the artillery and warlike stores shall be faithfully given up, and that an inventory of them shall be made out.—"Granted."

VIII.

That the sick and wounded, the commissaries, Chaplains, Physicians, Surgeons, Apothecaries, and other people employed in the service of the hospitals, shall be treated conformably to the cartel of the 6th of February, 1759, settled between their most Christian and Britannic Majesties.—"Granted."

IX.

That before delivering up the gate and the entrance of the town to the English troops, their General will be pleased to send some soldiers to be posted as safe-guards upon the churches, convents, and principal habitations.—"Granted."

X.

That the King's Lieutenant, commanding in Quebec, shall be permitted to send information to the marquis de Vaudreuil, Governor General, of the reduction of the place, as also that the General may send advice thereof to the french Ministry.—"Granted."

XI.

That the present capitulation shall be executed according to its form and tenour, without being subject, to non-execution under pretence of reprisals, or for the non-execution of any preceding capitulations.—"Granted."

Duplicates hereof taken and executed by, and between us, at the camp before Quebec, this 18th Day of September, 1759.

CHARLES SAUNDERS,
GEORGE TOWNSHEND,
DE RAMSAY.

ARTICLES OF CAPITULATION, MONTREAL.[1]

COPIE:

Articles de Capitulation Entre Son Excellence Le General Amherst Commandant en Chef Les Troupes & Forces de Sa Majesté Britanique En L'Amerique Septentrionale, Et Son Excellence Le M[is] de Vaudreüil, Grand Croix de L'Ordre Royal, et Militaire de S[t] Louis, Gouverneur et Lieutenant Général pour Le Roy en Canada.

Toute la Garnison de Montreal doit mettre bas les Armes, et ne

ART: 1[er]

Vingt quatre heures après La Signature de la présente Capitulation, Le

[1] The Articles of Capitulation of Montreal as here given, are taken from the copy enclosed in the despatch of General Amherst to Pitt, dated "Camp of Montreal," 8th Sept., 1760, as contained in Vol. 93 of the papers relating to "America and the West Indies," in the Public Record Office. Another text is given in the "Capitulations and Extracts of Treaties Relating to Canada," 1797. In his despatch to Pitt, Gen. Amherst thus alludes to the circumstances of the capitulation:—"7th in the morning two Officers came to an advanced Post with a Letter from the Marquis de Vaudreuil, referring me to what one of them, Le Colonel Bouguinville, had to say." (Proposing a truce for a month.) "The conversation ended with a Cessation of Arms 'till twelve o'clock, at which time the Proposals came. I returned mine, and wrote to the Marquis de Vaudreuil, this was followed by another letter from the Governour, I sent my Answer; I then received a Letter from Monsieur de Levis which I answered. The Troops lay on their Arms at Night, and soon after day I had a Letter from the Marquis de Vaudreuil, which I answered, and sent Major Abercrombie into Town, to bring me the Articles of Capitulation, signed by the Marquis de Vaudreuil of which I have sent him a duplicate, signed by me, and Colonel Haldimand with the Grenadiers and Light Infantry of the Army has taken possession of a Port and will proceed tomorrow in fulfilling the Articles of Capitulation. * * * I enclose to you, Sir, a Copy of the Articles of Capitulation with Copys of all the Letters that have passed for your information of the whole Transaction."

An account of the proceedings connected with the Capitulation of Montreal, from the French side, is given in a document entitled "Suite de la Campagne en Canada": 1760, in the "Collection de Documents Relatifs à l'Histoire de la Nouvelle-France." Quebec, 1885, vol. IV,. pp. 304-6. From this, among other French documents relative to this event, we learn that on the evening of Sept. 6th, the Marquis de Vaudreuil summoned the leading officers of the land and marine forces to meet at his quarters to discuss the general situation and consider terms of capitulation which had been drawn up and which were read by the Intendant Bigot. The impossibility of any longer maintaining a successful resistance was generally acknowledged, and M. de Bougainville was commissioned to propose to General Amherst, on the morning of the 7th, a general cessation of hostilities, awaiting possible news of a peace between the two countries. But, should Amherst not agree, he was authorized to propose the terms of capitulation which had been read before the council of war. The 7th was occupied with these negotiations, the submission of the French terms, and the reception of General Amherst's reply. During the evening of that day there took place a vigorous interchange of views verbal and written, between the Chevalier de Lévis and his chief officers, on the one hand, and the Marquis de Vaudreuil, on the other, in which the officers strenuously objected to the conditions imposed by Amherst and advocated a desperate resistance in the hope of securing better terms for the army. Vaudreuil, however, refused to sacrifice the general welfare of the colony in a futile support of the professional pride of the officers. Hence, notwithstanding his vigorous protests, Lévis was ordered to submit to the terms prescribed by Amherst. Although Vaudreuil appears to have acted for the best, his course was severely criticized by the French Court at the time.

Servira point pendant la presente Guerre; immediatement après la Signature de la presente, les Troupes du Roy prendront possession des Portes, et posteront les Gardes necessaires pour maintenir le bon Ordre dans La Ville.

Général Anglois fera prendre par Les Troupes de Sa Majesté Britanique, possession des portes de La Ville de Montreal et La Garnison Angloise ne poura y Entrer qu'après L'Evacuation des Troupes Francoises.

ART: 2

Les Troupes et les Milices qui seront en Garnison dans La Ville de Montreal, En Sortiront par la porte de . avec tous les honeurs de la Guerre, Six pieces de Canon, et Un Mortier, qui seront Chargés dans Le Vaisseau où Le Marquis de Vaudreüil Embarquera, avec dix Coups à tirer par piece. Il En sera Usé de même pour la Garnison des trois Rivieres pour les honeurs de la Guerre.

Toutes ces Troupes ne doivent point servir pendant la presente Guerre, et mettront pareillement les Armes bas; le Reste est Accordé.

ART: 3

Les Troupes et Milices qui seront en Garnison dans le Fort de Jacques Cartier, Et dans L'Isle S^te^ Helene, & Autres Forts, seront traittée, de même Et auront les mêmes honeurs; Et ces Troupes Se rendront à Montreal, où aux 3 Rivieres, ou à Quebec, pour y Estre toutes Embarquées pour le premier port de Mer en France, par le plus Court Chemin. Les Troupes qui sont dans nos postes Sitüés sur Nos Frontieres, du Costé de L'Accadie, au Détroit, Michilimakinac, et Autres postes, joüiront des mêmes honeurs et seront Traittées de même.

Accordé.

ART: 4

Les Milices, après Estre Sorties des Villes et des Forts et Postes Cydessus, retourneront Chez Elles, sans pouvoir Estre Inquiettées, Sous quelque prétexte que ce soit, pour avoir porté Les Armes.

ART: 5

Ces Troupes doivent comme les Autres, mettre bas les Armes.

Les Troupes qui Tiennent la Campagne Leveront leur Camp, Marcheront, Tambour battant, Armes, bagages et avec leur Artillerie, pour Se joindre à La Garnison de Montreal, Et auront en tout le même Traitement.

ART: 6

Refusé.

Les Sujets de Sa Majesté Britanique Et de Sa Majesté Très Chretienne, Soldats, Miliciens, ou Matelots, qui auront Désertés, oû Laissé Le Service de leur Souverain, et porté Les Armes dans L'Amerique Septentrionale Seront de part et d'autre pardonés de leur Crime; Ils seront respectivement rendus à leur patrie; Sinon Ils resteront chacun ou Ils sont, sans qu'ils puissent Estre recherchés ni Inquiettés.

ART: 7

C'est tout ce qu'on peut demandér sur Cette Article.

Les Magazins, L'Artillerie, Fusils, Sabres, Munitions de Guerre et généralement tout ce qui apartient à S. M. T. C. Tant dans les Villes de Montreal et 3 Rivieres, que dans les Forts et Postes Mentionés en L'Article 3, Seront Livrés par des Inventaires Exacts, aux Comissaires qui seront préposés pour les réçevoir au Nom de S.M.B.—Il sera remis au M[is] de Vaudreüil des Expeditions en bonne forme des d: Inventaire.

ART: 8

Les Malades et Blessés seront Traité de même que Nos propres Gens.

Les Officiers, Soldats, Miliciens, Matelots, et Même Les Sauvages détenus pour Cause de leurs Blessures, oú Maladie, tant dans les hopitaux que dans les Maisons particulieres, Joüiront des priviléges du Cartel, et Traittés Conséquament.

ART: 9

Le Général Anglois S'Engagera de renvoyer chez Eux Les Sauvages Indiens, Et Moraigans qui font Nombre de Ses Armées, d'abord aprés La Signature de La presente Capitulation, Et Cependant pour prévenir tous désordres de la part de Ceux qui ne Seroient pas partis, Il sera donné par le Général des Sauve-Gardes aux personnes qui En demanderont, tant En Ville que dans les Campagnes.

Le premier Refusé— Il n'y a point eu des Cruautes Commises par les Sauvages de Nôtre Armée: Et le bon Ordre sera maintenu.

ART: 10

Le Général de Sa Majesté Britanique garentira tous desordres de la part de Ses Troupes; Les assujettira à payer les domages qu'Elles pouroient faire, tant dans les Villes que dans les Campagnes.

Repondu par L'Article precedent.

ART: 11

Le Général Anglois ne poura obliger Le M^is^ de Vaudreüil de Sortir de la Ville de Montreal avant le . Et on ne poura Loger personne dans Son hôtel Jusques à Son départ M. Le Ch^er^ Levis Comandant Les Troupes de Terre; Les Officiers principaux, Et Majors des Troupes de Terre et de la Colonie, Les Ingenieurs, Officiers d'Artillerie, et Comissaire des Guerres, resteront pareillement à Montreal jusqu'au d. Jour, Et y Conserveront leurs Logemens. Il En Sera Usé de même à L'Egard de M. Bigot Intendant, des Comissaires de La Marine, Et Officiers de plume dont mon d: S. Bigot aura besoin: Et on ne poura Egalement Loger personne à L'Intendance avant Le départ de Cet Intendant.

Le Marquis de Vaudreuil, Et tous ces Messieurs seront Maitres de leurs Maisons, et s'Embarqueront d è s que les Vaisseaux du Roy seront prêts à faire Voile pour l'Europe: Et on leur accordera toutes les Commodités qu'on pourra.

ART: 12

Il sera destiné pour le passage en droiture au premier port de Mer en france, du M^is^ de Vaudreüil, Le Vaïs-

Accordé; Excepté les Archives qui pouront Etre necessaires pour

le Gouvernement du païs.

seau Le plus Comode qui Se trouvera: Il y sera pratiqué Les Logemens Necessaires pour Lui, Made La Marquise de Vaudreüil, M. de Rigaud, Gouverneur de Montreal, Et La Suitte de ce Général. Ce Vaisseau sera pourvû de Subsistances Convenables aux dépens de Sa Mté Britanique, Et Le Mis de Vaudreüil Emportera avec Lui Ses papiers, Sans qu'ils puissent Estre Visités, Et Il Embarquera Ses Equipages, Vaisselle, bagages, Et Ceux de Sa Suitte.—

ART: 13

Ce que Le Roy pouroit avoir fait à ce Sujet, sera Obéi.

Si avant oú aprés L'Embarquement du Mis de Vaudreüil, La Nouvelle de la paix arrivoit, Et que par Le Traitté Le Canada resta à Sa Mté T. C. Le Mis de Vaudreüil reviendroit à Quebec, ou à Montreal:—Toutes Choses rentreroient dans leur premier Estat sous la domination de Sa Mté T. C. Et La présente Capitulation deviendroit Nulle et sans Effet quelconques.

ART: 14

Accordé : Excepté que M. Le Mis de Vaudreüil, et tous les Officiers de quelque Rang qu'ils puissent être Nous remettrons de bonne foy toutes les Cartes et plans du Païs.

Il sera destiné deux Vaisseaux pour le passage en France de M. Le Cher de Levis, des Officiers principaux, Et Estat Major Général des Troupes de Terre; Ingenieurs, Officiers d'Artillerie, Et Gens qui sont à leur Suitte. Ces Vaisseaux seront Egalement pourvûs de Subsisances; Il y sera pratiqué Les Logemens necesaires. Ces Officiers pouront Emporter leurs papiers, qui ne Seront point Visités; Leurs Equipages et Bagages.— Ceux de Ces Officiers qui Seront Mariés auront La Liberté d'Emmener avec Eux leurs Femmes et Enfans, Et la Subsistance leur Sera fournie.

ART: 15.

Accordé; avec la même reserve que par

Il En Sera de même destiné Un pour Le passage de Mr Bigot Intendant et de

l'Article precedent.

Sa Suitte, dans lequel Vaisseau, Il sera fait les aménagemens Convenables, pour lui, Et les personnes qu'il Emmenera. Il y Embarquera Egalement Ses papiers, que ne Seront point Visités, Ses Equipages, Vaisselle, et bagages, et Ceux de Sa Suitte. Ce Vaisseau Sera pourvû de Subsistances Comme Il est dit Cy devant.

ART: 16

Accordé—.

Le Général Anglois fera aussi fournir pour M. de Longueüil Gouverneur des 3. Rivieres, pour les Estats Majors de La Colonie, Et Les Comissaires de La Marine, Les Vaisseaux necessaires pour se rendre En france, Et le plus Comodement qu'il Sera possible; Ils pouront y Embarquer Leurs Familles Domestiques, bagages, et Equipages; Et la Subsistance leur Sera fournie pendant la Traversée sur un pied Convenable, aux dépens de Sa M^{té} Britanique.

ART: 17

Accordé—.

Les Officiers et Soldats, Tant des Troupes de Terre, que de La Colonie, ainsi que les Officiers Marins et Matelots, qui se trouveront dans la Colonie, seront aussi Embarqués pour France, dans les Vaisseaux qui leur Seront Destinés, En Nombre Sufisant, et Le plus Comodement que faire se poura...Les Officiers de Troupes et Marins, qui seront mariés pouront Emmener avec Eux leurs Familles; Et tous auront La Liberté d'Embarquer leurs Domestiques et Bagages, Quant aux Soldats et Matelots, Ceux qui Seront Mariés pouront Emmener avec Eux Leurs Femmes et Enfans, Et tous Embarqueront leurs havre Sacs et Bagages.—Il Sera Embarqué dans ces Vaisseaux Les Subsistances Convenables et sufisantes aux dépens de Sa M^{té} Britanique.

ART: 18

Accordé—. Les Officiers, Soldats, et tous Ceux qui sont à la Suitte des Troupes, qui auront leurs Bagages dans les Campagnes, pouront les Envoyer Chercher avant leur départ, Sans qu'il leur Soit fait aucun Tort, ni Empeschement.

ART: 19

Accordé—. Il Sera fourni par le Général Anglois un Batiment d'hopital pour Ceux des Officiers, Soldats & Matelots, blessés ou Malades, qui seront En Estat d'Estre transportés En france, Et la Subsistance Leur Sera Egalement fournie aux dépens de Sa M^té^ Britanique:

Il En Sera Usé de même à L'Egard des Autres Officiers, Soldats, et Matelots, blessés, ou Malades, aussitost qu'ils Seront rétablis... Les Uns et les Autres pouront Emmener Leurs Femmes, Enfans, Domestiques, et Bagages; Et les d: Soldats et Matelots ne pouront Etre Sollicités, ni forcés à prendre parti dans Le Service de Sa M^té^ Britanique.

ART: 20

Accordé—. Il Sera Laissé un Comissaire, et un Ecrivain de Roy pour avoir Soin des hopitaux, et Veiller à tout ce qui aura raport au Service de Sa M^té^ Très Chretienne.

ART: 21

Accordé, mais s'ils ont des papiers qui concernent le Gouvernement du païs, Ils doivent Nous les remettre. Le General Anglois fera Egalement fournir des Vaisseaux pour Le passage en france des Officiers du Conseil Superieur, de Justice, police, de L'Amirauté, et tous Autres Officiers ayant Comissions où Brevets de Sa M^té^ Tres Chretienne, pour Eux, leurs Familles, Domestiques, et Equipages, Comme pour les Autres Officiers: Et La Subsistance leur Sera fournie de même aux dépens de Sa M^té^ Britanique.

Il leur Sera Cependant Libre de rester dans la Colonie, S'ils le Jugent apropos, pour y arranger Leurs Affaires, ou de Se retirer En france, quand bon Leur Semblera.

ART: 22

Tous Ceux dont les Affaires particulieres exigent qu'ils restent dans le païs, et qui en ont la permission de M. Vaudreüil, seront permis de rester Jusqu'a ce que leurs Affaires soient terminées.

S'il y a des Officiers Militaires dont les Affaires Exigent leur présence dans la Colonie Jusqu'a L'Année prochaine, Ils pouront y rester, aprés En avoir eu La permission du M^is^ de Vaudreüil, Et sans qu'ils puissent Estre réputés Prisoniers de Guerre.

Accordé.

ART: 23

Il sera permis au Munitionaire des Vivres du Roy, de demeurer en Canada Jusqu'a L'Année prochaine pour Estre En Estat de faire face aux dettes qu'il a Contractées dans la Colonie, relativement à Ses fournitures; Si néantmoins Il préfere de passer En france cette Année Il sera obligé de Laisser Jusques à L'Année prochaine Une personne pour faire Ses Affaires. Ce particulier Conservera et poura Emporter tous Ses papiers, Sans Estre Visités... Ses Comis auront La Liberté de rester dans La Colonie, ou de passer en France, Et dans ce dernier Cas, Le passage et la Subsistance leur Seront Accordés Sur les Vaisseaux de Sa M^té^ Britanique, pour Eux, Leurs familles, et leurs bagages.

Tout ce qui se trouve dans les Magazins destinés à L'Usage des Troupes, doit être delivré au Commissaire Anglois pour les Troupes du Roy.

ART: 24

Les Vivres et Autres aprivisionement qui se trouveront En Nature dans les Magasins du Munitionaire, Tant dans les Villes de Montreal, et des 3. Rivieres que dans les Campagnes, Lui Seront Conservés, Les d: Vivres Lui apartenant et Non au Roy, Et Il lui Sera

Loisible de les Vendre aux françois ou aux Anglois.

ART: 25

Accordé.

Le passage En france Sera Egalement accordé sur les Vaisseaux de Sa M^té^ Britanique, ainsi que la Subsistance, à Ceux des Officiers de la Compagnie des Indes qui Voudront y passer, Et Ils Emmeneront leurs familles domestiques et bagages... Sera permis à L'Agent principal de la d^e^: Compagnie, Suposé qu'il Voulut passer en france de Laisser telle personne qu'il Jugera apropos Jusques à L'Année prochaine, pour terminer les Affaires de la d^e^. Comp^ie^: et faire le recouvrement des Sommes qui lui sont dües. L'Agent principal Conservera tous les Papiers de la d^e^ Compagnie, Et Ils ne pouront Estre Visités.

ART: 26

Accordé pour ce qui peut appartenir à la Compagnie ou aux particuliers, mais Si Sa Majesté Très Chretienne y a aucune part, Elle doit être au profit du Roy.

Cette Compagnie Sera maintenüe dans la proprieté des Ecarlatines et Castors qu'Elle peut Avoir dans La Ville de Montreal; Il n'y Sera point touché, Sous quelque prétexte que ce Soit, Et Il Sera donné à L'Agent principal les facilités Necessaires pour faire passer Cette Année En france Ses Castors Sur les Vaisseaux de Sa M^té^ Britanique, En payant le fret sur le pied, que les Anglois le payeroient.

ART: 27

Accordé, pour le Libre Exercise de leur Religion. L'Obligation de payer la Dixme aux Prêtres, dependra de la Volonté du Roy.

Le Libre Exercice de la Religion Catolique, Apostolique et Romaine Subsistera En Son Entier; En Sorte que tous Les Estats et les peuples des Villes et des Campagnes, Lieux et postes Eloignés pouront Continuer de S'assembler dans les Eglises, et de frequenter les Sacremens, Comme Cy devant, Sans Estre

Inquietés, En Aucune Maniere directement, ni Indirectement.

Ces peuples seront Obligés par le Gouvernement Anglois à payer aux prestres qui en prendront Soin, Les Dixmes, et tous les droits qu'ils avoient Coutume de payér sous le Gouvernement de Sa M^té^ tres Chretienne.

ART: 28

Accordé— Le Chapitre, Les Prestres, Curés et Missionaires, Continueront avec Entiere Liberté leurs Exercises et fonctions Curiales dans les paroisses des Villes et des Campagnes.

ART: 29

Accordé, Excepté ce qui regarde l'Article Suivant. Les Grands Vicaires Només par le Chapitre pour administrer le Dioceze pendant la Vacance du Siege Episcopal, pouront demeurer dans les Villes où paroisses des Campagnes, Suivant qu'ils le Jugeront à propos. Ils pouront En tout Temps Visiter les differentes paroisses du Dioceze, avec les Cérémonies Ordinaires, Et Exercer toute La Jurisdiction qu'ils Exerçoient sous la domination françoise.—Ils Joüiront des mêmes droits En Cas de Mort du futur Evesque, dont Il sera parlé à L'Article Suivant.

ART: 30

Refusé.— Si par Le Traitté de paix, Le Canada restoit au pouvoir de Sa M^té^ Britanique, Sa M^té^ Tres Chretieñe Continueroit à Nomer L'Evesque de La Colonie, qui Seroit toujours de la Comunion Romaine, et Sous L'Autorité duquel les peuples Exerceroient La Religion Romaine.

ART: 31

C'est Article est compris sous le precedent. Poura Le Seigneur Evesque Etablir dans le besoin de Nouvelles paroisses, Et pourvoir au rétablissement de Sa

Cathedrale et de Son Palais Episcopal; Et Il Aura En Attendant la Liberté de demeurer dans les Villes, ou paroisses, Comme Il le Jugera àpropos.—Il poura Visiter son Dioceze avec les Ceremonies Ordinaire, Et Exercer toute La Jurisdiction que son predecesseur Exerçoit sous la domination francoise; sauf a Exiger de Lui Le Serment de fidelité, ou promesse de ne rien faire, ni rien dire Contre Le Service de Sa M^{té} Britanique.

ART: 32

Accordé.

Les Comunautés de filles Seront Conservées dans leurs Constitutions et privileges. Elles Continüeront d'Observer leurs règles— Elles seront Exemptes du Logement de Gens de Guerre, Et Il Sera fait deffenses de Les Troubler dans Les Exercices de pieté qu'Elles pratiguent, ni d'Entrer chez Elles; On leur donnera même des Sauves Gardes, Si Elles En demandent.

ART: 33

Refusé Jusqu'a ce que le plaisir du Roy soit Connu.

Le precedent Article Sera pareillement Executé à L'Egard des Comunautés des Jesuites et Recolets, et de la Maison des prestres de S^{t} Sulpice à Montreal; Ces derniers et Les Jesuites Conserveront Le droit qu'ils ont de Nomer à Certaines Cures et Missions, Comme Cy devant.

ART: 34

Accordé.

Toutes les Comunautés, Et tous les prestres Conserveront Leurs Meubles, La proprieté, Et L'Usufruit des Seigneuries, Et Autres biens que les Uns et les Autres possedent dans la Colonie de quelque Nature qu'ils Soient, Et Les d: biens seront Conservés dans leurs priviléges, droits, honeurs, et Exemptions.

Ils seront les maitres de disposer de leurs biens, et d'en passer le produit, ainsi que leurs personnes, et tout ce qui leur appartient, En france.

ART: 35

Si Les Chanoines, Prestres, Missionaires, Les Prestres du Seminaire des Missions Etrangeres Et de S^{t} Sulpice, ainsi que les Jesuites et Les Recolets, Veulent passer En france, Le passage leur sera Accordé sur les Vaisseaux de Sa Majesté Britanique; Et Tous auront la Liberté de Vendre, En total ou partie, Les biensfonds, Et Mobiliers qu'ils possedent dans la Colonie, soit aux francois, ou aux Anglois, sans que le Gouvernement Britanique puisse y mettre le moindre Empeschement ni Obstacle.

Ils pouront Emporter avec Eux, ou faire passer En france Le produit de quelque Nature qu'il soit, des d^{s} biens Vendus, en payant Le fret, Comme Il est dit à L'Article 26.

Et Ceux d'Entre Ces Prestres qui Voudront passer Cette Année, Seront Nouris pendant La Traversée aux dépens de Sa M^{té} Britanique, Et pouront Emporter avec Eux leurs bagages.

Accordé.

ART: 36

Si par Le Traitté de Paix, Le Canada reste à Sa M^{té} Britanique, Tous Les Francois, Canadiens, Accadiens, Comerçant, et Autres personnes qui Voudront se retirer En france, En Auront la permission du Général Anglois qui leur procurera le passage.—Et Néantmoins Si d'icy à Cette décision Il Se trouvoit des comerçans françois où Canadiens, ou Autres personnes qui Voulussent passer En france, Le Général Anglois Leur En donneroit Egalement la permission Les Uns et les Autres Emmeneront avec Eux leurs familles domestiques et bagages.

Accordé comme par L'Article 26.

ART: 37

Les Seigneurs de Terres, Les Officiers Militaires et de Justice, Les Canadiens,

Tant des Villes que des Campagnes, Les francois Etablis ou Comerçant dans toute l'Etendue de La Colonie de Canada, Et Toutes Autres personnes que ce puisse Estre, Conserveront L'Entiere paisible proprieté et possession de leurs biens, Seigneuriaux et Roturiers Meubles et Immeubles, Marchandises, Pelleteries, et Autres Effets, même de Leurs batimens de Mer; Il n'y Sera point touché ni fait le moindre domage, sous quelque prétexte que ce Soit:—Il leur Sera Libre de les Conserver, Loüer, Vendre, Soit aux François, ou aux Anglois, d'En Emporter Le produit En Lettres de Change, pelleteries Especes Sonantes, ou autres retours, Lorsqu'ils Jugeront à propos de passer en france, En payant le fret, Comme à L'Article *26*.

Ils Joüiront aussi des pelleteries qui sont dans les postes d'En haut, & qui leur apartiennent, Et qui peuvent même estre En Chemin de se rendre à Montreal. Et à cet Effet, Il leur Sera permis d'Envoyer dès cette Année, ou la prochaine, des Canots Equipés pour Chercher Celles de ces pelleteries qui auront restées dans ces postes.

ART: 38

C'est au Roy à disposer de Ses Anciens Sujets: en attendant Ils Joüiront des mêmes privileges que les Canadiens.

Tous Les peuples Sortis de L'Accadie qui se trouveront en Canada, y Compris les frontieres du Canada du Costé de L'Accadie, auront Le même Traitement que Les Canadiens, et Joüiront des mêmes privileges qu'Eux.

ART: 39

Accordé, Excepté à l'égard des Acadiens.

Aucuns Canadiens, Accadiens, ni Francois, de Ceux qui sont presentement en Canada, et sur les frontieres de La Colonie du Costé de L'Accadie du Détroit, Michilimakinac, et Autres Lieux et Postes des païs d'Enhaut, ni les Soldats Mariés et non Mariés restant en Canada,

ne pouront Estre portés, ni Transmigrés dans les Colonies Angloises, ni en L'Ancienne Angleterre, Et Ils ne pouront Estre recherchés pour avoir pris Les Armes.

ART: 40

Accordé, à la reserve du dernier Article qui a dejà été refusé.

Les Sauvages oũ Indiens Alliés de Sa M^té^ tres Chretienne Seront maintenus dans Les Terres qu'ils habitent, S'ils Veulent y rester; Ils ne pouront Estre Inquietés Sous quelque prétexte que ce puisse Estre, pour avoir pris les Armes et Servi Sa Ma^té^ très Chretienne. —Ils auront Comme les François, la Liberté de Religion et Conserveront leurs Missionaires.—Il sera permis aux Vicaires généraux Actuels Et à L'Eveque, lorsque Le Siege Episcopal Sera rempli, de leur Envoyer de Nouveaux Missionaires Lorsqu'ils Le Jugeront Necessaire.

ART: 41

Ils deviennent Sujets du Roy.

Les francois, Canadiens, Et Accadiens, qui resteront dans La Colonie, de quelque Estat et Condition qu'ils Soient, ne Seront, ni ne pouront Estre forcés a prendre les Armes Contre Sa M^té^ très Chretienne, ni Ses Alliés, directement, ni Indirectement, dans quelque Occasion que ce Soit. Le Gouvernement Britanique ne poura Exiger d'Eux qu'Une Exacte Neutralité.

ART: 42

Répondu par les Articles précedents, et particulierement par le dernier.

Les francois et Canadiens Continüeront d'Estre Gouvernés Suivant La Coutume de Paris et les Loix et Usages Etablis pour ce pays; Et Ils ne pouront Estre Assujettis à d'Autres Impots qu'a Ceux qui Estoient Etablis sous la domination françoise.

ART: 43

Accordé avec la reserve déja faite.— Les papiers du Gouvernement resteront sans Exception au pouvoir du M[is] de Vaudreüil, Et passeront en france avec lui. Ces papiers ne pouront Estre Visites sous quelque prétexte que ce Soit.

ART: 44

Il en est de même de cet Article. Les papiers de L'Intendance, des Bureaux du Controle de La Marine, des Trésoriers Ancien et Nouveau, des Magazins du Roy, du Bureau du Domaine et des forges S[t] Maurice, resteront au pouvoir de M. Bigot Intendant, Et Ils Seront Embarqués pour france dans le Vaisseau ou Il passera. Ces papiers ne Seront point Visités.

ART: 45

Accordé.— Les Registres et Autres papiers du Conseil Superieur de Quebec, de la Prevosté Et Amirauté de la même Ville, Ceux des Jurisdictions Royales des trois Rivieres et de Montreal; Ceux des Jurisdictions Seigneuriales de la Colonie; Les Minutes des Actes des Notaires des Villes et des Campagnes, Et généralement Les Actes & Autres papiers qui peuvent Servir à Justifier L'Estat et la fortune des Citoyens, resteront dans La Colonie dans les Greffes des Jurisdictions dont Ces papiers dépendent.

ART: 46.

Accordé.— Les Habitans et Négocians Joüiront de tous les priviléges du Comerce aux mêmes faveurs Et Conditions accordées aux Sujets de Sa Majesté Britanique, tant dans les pays d'Enhaut que dans L'Interieur de La Colonie.

ART: 47

Accordé, Excepté Ceux qui auront étés faits Prisonniers.

Les Negres et panis des deux Séxes, resteront En leur qualité d'Esclaves, en la possession des françois et Canadiens à qui Ils apartiennent; Il leur Sera libre de les garder à leur Service dans la Colonie, où de les Vendre, Et Ils pouront aussi Continuer à les faire Elever dans la Religion Romaine.—

ART: 48

Accordé.—

Il Sera permis au M[is] de Vaudreüil, aux Officiers généraux et Superieurs des Troupes de Terre; Aux Gouverneurs et Etats Majors des differentes places de la Colonie; Aux Officiers Militaires et de Justice, Et à toutes Autres personnes qui Sortiront de la Colonie, ou qui sont deja absents, de Nommer et Etablir des procureurs pour Agir pour Eux Et en leur Nom, dans l'administration de leurs biens Meubles et Immeubles, Jusqu'a ce que la paix Soit faite. Et si par le Traitté des deux Courones Le Canada ne rentre point Sous La domination françoise, Ces Officiers, ou Autres personnes, ou procureurs pour Eux, auront L'agrement de Vendre leurs Seigneuries, Maisons, et Autres biensfonds, Leurs Meubles et Effets, &ca, d'En Emporter, ou faire passer Le produit en france, Soit En Lettres de Change, Espèces Sonantes, pelleteries, ou Autres Retours, Comme Il Est dit à L'Article 37.

ART: 49

Accordé.—

Les habitans et Autres personnes qui auront Soufert quelque domage En leurs biens, Meubles ou Immeubles restés à Quebec Sous la foy de la Capitulation de Cette Ville, pouront faire leurs répresentations au Gouvernement Britanique qui leur rendra La Justice, qui leur Sera düe Contre qui Il apartiendra.

ART: 50 ET DERNIER

Accordé.— La presente Capitulation Sera Inviolablement Executée En tous Ses Articles, de part et d'autre et de bonne foy, Non obstant toute Infraction et tout autre prétexte par Raport aux précedentes Capitulations, et Sans pouvoir Servir de réprésailles.

ART: 51

On Aura Soin que les Sauvages, n'insulte aucun des Sujets de Sa Majesté Très Chrêtienne. Le Général Anglois S'Engagera, En Cas qu'il reste des Sauvages, après La Redition de Cette Ville, à Empécher qu'ils n'Entrent dans Les Villes et qu'ils n'Insultent en Aucune Maniere, Les Sujets de Sa M^té^ Très Chrêtienne.

ART: 52

Repondu par L'Article 11^e^ Les Troupes et Autres Sujets de Sa M^té^ Très Chretienne, qui doivent passer En france, Seront Embarquées Quinze Jours au plus tard, après La Signature de la présente Capitulation.

ART: 53

Accordé. Les Troupes et Autres Sujets de Sa M^té^ très Chretienne, qui devront passer En france, resteront Logées, ou Campées dans la Ville de Montreal, Et Autres postes qu'Elles occupent présentement Jusqu'au moment oũ Elles seront Embarquées pour le départ.—Il sera néantmoins Accordé des passeports à Ceux qui En auront besoin, pour Les differens Lieux de la Colonie pour Aller Vaquer à leurs Affaires.

ART: 54

Accordé Tous les Officiers et Soldats des Troupes au Service de France qui Sont prisonniers à la Nouvelle Angleterre, et faits En Canada, Seront renvoyés Le plustost qu'il Sera possible En france, oũ Il Sera Traitté de leur Rançon, ou Echange, Suivant Le Cartel; Et Si

quelques Uns de Ces Officiers avoient des Affaires En Canada, Il leur Sera permis d'y Venir.

ART: 55

Accordé à la reserve de ce qui regarde les Acadiens.

Quant aux Officiers de Milices aux Miliciens, et aux Accadiens qui sont prisoniers à la Nouvelle Angleterre, Ils Seront renvoyés Sur leurs Terres.

Fait au Camp devant Montreal ce 8e Septembre 1760

fait a Montréal le 8 Sepe 1760

VAUDREÜIL.

JEFF: AMHERST

endorsed: Copy—
Articles of Capitulation—
Granted to the Marquis de Vaudreüil.—
8th Sepr 1760.

SESSIONAL PAPER No. 18

(*Translation.*)[1]

ARTICLES OF CAPITULATION

Between their Excellencies Major GENERAL AMHERST, Commander in Chief of his Britannic Majesty's troops and forces in North-America, on the one part, and the Marquis de Vaudreuil, &c. Governor and Lieuttenant-General for the King in Canada, on the other.

Article Ist.

Twenty-four hours after the signing of the present capitulation, the British General shall cause the troops of his Britannic Majesty to take possession of the Gates of the town of Montreal; and the British Garrison shall not enter the place till after the French troops shall have evacuated it.—"The whole Garrison of Montreal must lay down their arms, and shall "not serve during the present war. Immediately after the signing of the "present capitulation, the King's troops shall take possession of the gates, "and shall post the Guards necessary to preserve good order in the town."

Article IId.

The troops and the militia, who are in Garrison in the town of Montreal, shall go out by the gate of Quebec, with all the honours of war. six pieces of cannon and one mortar, which shall be put on board the vessel where the Marquis de Vaudreuil shall embark, with ten rounds for each piece; and the same shall be granted to the Garrison of the Three Rivers, as to the honours of war.—"Referred to the next article."

Article IIId.

The troops and militia, who are in Garrison in the Fort of Jacques Cartier, and in the Island of St. Helen, and other forts, shall be treated in the same manner, and shall have the same honours; and these troops shall go to Montreal, or the Three Rivers or Quebec; to be there embarked for the first sea port in France, by the shortest way. The troops, who are in our posts, situated on our frontiers, on the side of Acadia, at Detroit, Michilimaquinac, and other posts, shall enjoy the same honours, and be treated in the same manner.—"All these troops are not to serve during the "present war, and shall likewise lay down their arms, the rest is granted."

Article IVth

The Militia after evacuating the above towns, forts and posts, shall return to their habitations, without being molested on any pretence whatever, on account of their having carried arms.—"Granted."

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[1] As in the case of the Articles of Capitulation of Quebec, the English version of the Articles of Capitulation of Montreal, here given, follows that in "Capitulations and Extracts of Treaties Relating to Canada," 1797. Other versions with slight variations are to be found in Knox's "Journal" Vol. II., p. 423, in "Documents Relative to the Colonial History of the State of New York," Vol. X., p. 1107, and in the "Annual Register" for 1760, p. 222.

ARTICLE VTH

The troops, who keep the field, shall raise their camp, drums beating, with their arms, bagage and artillery, to join the garrison of Montreal, and shall be treated in every respect the same.—"These troops, as well as the "others, must lay down their arms."

ARTICLE VITH

The Subjects of his Britannic Majesty, and of his most Christian Majesty, Soldiers, Militia or Seamen, who shall have deserted or left the service of their Sovereign, and carried arms in North-America, shall be, on both sides pardoned for their crime; they shall be respectively returned to their country; if not, each shall remain where he is without being sought after or molested.—"Refused."

ARTICLE VII.

The Magazines, the artillery, firelocks, sabres, ammunition of war, and, in general every thing that belongs to his most Christian Majesty, as well in the towns of Montreal and Three Rivers, as in the forts and post mentioned in the Third article shall be delivered up, according to exact Inventories, to the commissaries who shall be appointed to receive the same in the name of his Britannic Majesty. Duplicates of the said Inventories shall be given to the Marquis de Vaudreuil.—"This is every thing that can "be asked on this article."

ARTICLE VIII.

The Officers, Soldiers, Militia, Seamen and even the Indians, detained on account of their wounds or sickness, as well as in the hospital, as in private houses, shall enjoy the privileges of the cartel, and be treated accordingly.—"The sick and wounded shall be treated the same as our own people."

ARTICLE IX

The British General shall engage to send back, to their own homes, the Indians, and Moraignans, who make part of his armies, immediately after the signing of the present capitulation, and, in the mean time, the better to prevent all disorders on the part of those who may not be gone away, the said Generals shall give safe-guards to such persons as shall desire them, as well in the town as in the country. "The first part refused."—"There "never have been any cruelties committed by the Indians of our army: "and good order shall be preserved."

ARTICLE X

His Britannic Majesty's General shall be answerable for all disorders on the part of his troops, and shall oblige them to pay the Damages they

may do, as well in the towns as in the country.—"Answered by the pre-"ceding article."

Article XI

The British General shall not oblige the Marquis de Vaudreuil to leave the town of Montreal before.....and no person shall be quartered in his house till he is gone. The Chevalier de Levis, Commander of the land forces and colony troops, the Engineers, Officers of the Artillery, and Commissary of war, shall also remain at Montreal till the said day, and shall keep their lodgings. The same shall be observed with regard to M. Bigot, Intendant, the Commissaries of Marines and writers, whom the said M. Bigot shall have occasion for, and no person shall be lodged at the Intendant's house before he shall take his departure.—"The Marquis de Vaudreuil, and all these gentlemen, shall be masters of their houses, and "shall embark, when the King's ship shall be ready to sail for Europe; "and all possible conveniences shall be granted them."

Article XII

The most convenient vessel that can be found shall be appointed to carry the Marquis de Vaudreuil, M. de Rigaud, the Governor of Montreal, and the suite of this General, by the straitest passage to the first sea port in France; and every necessary accommodation shall be made for them. This vessel shall be properly victualled at the expence of his Britannic Majesty: and the Marquis de Vaudreuil shall take with him his papers, without their being examined, and his equipages, plate, baggage, and also those of his retinue.—"Granted, except the archives which shall be necessary "for the Government of the country."

Article XIII

If before, or after, the embarkation of the Marquis de Vaudreuil, news of Peace should arrive, and, that by treaty, Canada should remain to his most Christian Majesty, the Marquis de Vaudreuil shall return to Quebec or Montreal; every thing shall return to its former state under the Dominion of his most Christian Majesty, and the present capitulation shall become null and of no effect.—"Whatever the King may have done, "on this subject, shall be obeyed."

Article XIV

Two ships will be appointed to carry to France, le Chevalier de Levis, the principal officers, and the staff of the Land forces, the Engineers, officers of Artillery, and their domestics. These vessels shall likewise be victualled, and the necessary accommodation provided in them. The said officers shall take with them their papers, without being examined, and also,

their equipages and bagage. Such of the said officers as shall be married, shall have liberty to take with them their wives and children, who shall also be victualled.—Granted, "except that the Marquis de Vaudreuil and all "the officers, of whatever rank they may be, shall faithfully deliver to us "all the charts and plans of the country."

Article XV

A vessel shall also be appointed for the passage of Mr. Bigot, the Intendant, with his suite; in which vessel the proper accommodation shall be made for him, and the persons he shall take with him: he shall likewise embark with him his papers, which shall not be examined: his equipages, plate, baggage and those of his suite: this vessel shall be victualled as before mentioned.—"Granted, with the same reserve, as in the preceding "article."

Article XVI

The British General shall also order the necessary and most convenient vessels to carry to France M. de Longueuil, Governor of Trois Rivieres, the staff of the colony, and the Commissary of the Marine; they shall embark therein their families, servants, baggage and equipages, and they shall be properly victualled, during the passage, at the expence of his Britannic Majesty.—"Granted."

Article XVII

The officers and soldiers, as well as of the Land-forces, as of the colony, and also the Marine Officers, and Seamen, who are in the colony, shall be likewise embarked for France, and sufficient and convenient vessels shall be appointed for them. The Land and sea officers, who shall be married, shall take with them their families, and all of them shall have liberty to embark their servants and baggage. As to the soldiers and seamen, those who are married shall take with them their wives and children, and all of them shall embark their haversacks and baggage; these vessels shall be properly and sufficiently victualled at the expence of his Britannic Majesty. —"Granted."

Article XVIII

The officers, soldiers and the followers of the troops, who shall have their baggage in the fields, may send for it before they depart, without any hindrance or molestation.—"Granted."

Article XIX

An hospital ship shall be provided by the British General, for such of the wounded and sick officers, soldiers and seamen as shall be in a con-

dition to be carried to France, and shall likewise be victualled at the expence of his Britannic Majesty. It shall be the same with regard to the other wounded and sick officers, soldiers and sailors, as soon as they shall be recovered. They shall have liberty to carry with them their wives, children, servants and baggage; and the said soldiers and sailors shall not be solicited nor forced to enter into the service of his Britannic Majesty.—"Granted."

Article XX

A Commissary and one of the King's Writers, shall be left to take care of the hospitals, and whatever may relate to the service of his most Christian Majesty.—"Granted."

Article XXI

The British General shall also provide ships for carrying to France the officers of the supreme council, of justice, police, admiralty, and all other officers, having commissions or brevets from his most Christian Majesty, for them, their families, servants and equipages, as well as for the other officers: and they shall likewise be victualled at the expence of his Britannic Majesty. They shall, however, be at liberty to stay in the colony, if they think proper to settle their affairs, or to withdraw to France whenever they think fit.—"Granted, but if they have papers relating to the Govern-"ment of the country, they are to be delivered up to us."

Article XXII

If there are any Military officers, whose affairs should require their presence in the colony till the next year, they shall have liberty to stay in it, after having obtained the permission of the Marquis de Vaudreuil for that purpose, and without being reputed prisoners of war.—"All those whose "private affairs shall require their stay in the country, and who shall have "the Marquis de Vaudreuil's leave for so doing, shall be allowed to remain "till their affairs are settled."

Article XXIII

The Commissary for the King's provisions shall be at liberty to stay in Canada till next year, in order to be enabled to answer the debts he has contracted in the colony, on account of what he has furnished; but, if he should prefer to go to France this year, he shall be obliged to leave, till next year, a person to transact his business. This private person shall preserve, and have liberty to carry off, all his papers, without being inspected. His clerks shall have leave to stay in the colony or go to France; and in this last case, a passage and subsistence, shall be allowed them on board the ships of his Britannic Majesty, for them, their families, and their baggage.—"Granted."

Article XXIV

The provisions and other kind of stores, which shall be found in the Magazines of the commissary, as well in the towns of Montreal, and of the Three-Rivers, as in the country, shall be preserved to him, the said provisions belonging to him, and not to the King; and he shall be at liberty to sell them to the French and English.—"Everything that is actually in the "magazines, destined for the use of the troops, is to be delivered to the "British commissary, for the King's forces."

Article XXV

A passage to France shall likewise be granted, on board of his Britannic Majesty's ships, as well as victuals to such officers of the India company as shall be willing to go thither, and they shall take with them their families, servants and baggage. The Chief agent of the said Company, in case he should chuse to go to France, shall be allowed to leave such person as he shall think proper till next year, to settle the affairs of the said Company, and to recover such sums as are due to them. The said chief agent shall keep possession of all the papers belonging to the said company, and they shall not be liable to inspection.—"Granted."

Article XXVI

The said company shall be maintained in the property of the Ecarlatines and Castors, which they may have in the town of Montreal; they shall not be touched under any pretence whatever, and the necessary Licences shall be given to the Chief Agent, to send this year his Castors to France, on Board his Britannic Majesty's ships, paying the freight on the same footing as the British would pay it.—"Granted, with regard to what may "belong to the company, or to private persons; but if his Most Christian "Majesty has any share in it, that must become the property of the King."

Article XXVII

The free exercise of the Catholic, Apostolic, and Roman Religion, shall subsist entire, in such manner that all the states and the people of the Towns and countries, places and distant posts, shall continue to assemble in the churches, and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly. These people shall be obliged, by the English Government, to pay their Priests the tithes, and all the taxes they were used to pay under the Government of his most Christian Majesty.—"Granted, as to the free exercise of their religion, the "obligation of paying the tithes to the Priests will depend on the King's "pleasure."

Article XXVIII

The Chapter, Priests, Curates and Missionaries shall continue, with an entire liberty, their exercise and functions of cures, in the parishes of the towns and countries.—"Granted."

Article XXIX

The Grand Vicars, named by the Chapter to administer to the diocese during the vacancy of the Episcopal see, shall have liberty to dwell in the towns or country parishes, as they shall think proper. They shall at all times be free to visit the different parishes of the Diocese with the ordinary ceremonies, and exercise all the jurisdiction they exercised under the French Dominion. They shall enjoy the same rights in case of the death of the future Bishop, of which mention will be made in the following article.—"Granted, except what regards the following article."

Article XXX

If by the treaty of peace, Canada should remain in the power of his Britannic Majesty, his most Christian Majesty shall continue to name the Bishop of the colony, who shall always be of the Roman communion, and under whose authority the people shall exercise the Roman Religion.—"Refused."

Article XXXI

The Bishop shall, in case of need, establish new parishes, and provide for the rebuilding of his Cathedral and his Episcopal palace; and, in the mean time, he shall have the liberty to dwell in the towns or parishes, as he shall judge proper. He shall be at liberty to visit his Diocese with the ordinary ceremonies, and exercise all the jurisdiction which his predecessor exercised under the French Dominion, save that an oath of fidelity, or a promise to do nothing contrary to his Britannic Majesty's service, may be required of him.—"This article is comprised under the foregoing—

Article XXXII

The communities of Nuns shall be preserved in their constitutions and privileges; they shall continue to observe their rules, they shall be exempted from lodging any military; and it shall be forbid to molest them in their religious exercises, or to enter their monasteries: safe-guards shall even be given them, if they desire them.—"Granted."

Article XXXIII

The preceding article shall likewise be executed, with regard to the communities of Jesuits and Recollects and of the house of the priests of

St. Sulpice at Montreal; these last, and the Jesuits, shall preserve their right to nominate to certain curacies and missions, as heretofore.—"Re-"fused till the King's pleasure be known."

Article XXXIV

All the communities, and all the priests, shall preserve their moveables, the property and revenues of the Seignories and other estates, which they possess in the colony, of what nature soever they be; and the same estates shall be preserved in their privileges, rights, honours, and exemptions.—"Granted."

Article XXXV.

If the Canons, Priests, Missionaries, the Priests of the seminary of the foreign Missions, and of St. Sulpice, as well as the Jesuits, and the Recollects, chuse to go to France, a passage shall be granted them in his Britannic Majesty's ships, and they shall have leave to sell, in whole, or in part, the estates and moveables which they possess in the colonies, either to the French or to the English, without the least hindrance or obstacle from the British Government.—They may take with them, or send to France, the produce of what nature soever it be, of the said goods sold, paying the freight, as mentioned in the XXVIth article; and such of the said Priests, who chuse to go this year, shall be victualled during the passage, at the expence of his Britannic Majesty; and they shall take with them their baggage.—"They "shall be masters to dispose of their estates and to send the produce thereof, "as well as their persons, and all that belongs to them to France."

Article XXXVI.

If by the treaty of Peace, Canada remains to his Britannic Majesty, all the French, Canadians, Acadians, Merchants and other persons who chuse to retire to France, shall have leave to do so from the British General, who shall procure them a passage: and nevertheless, if, from this time to that decision, any French, or Canadian Merchants or other persons, shall desire to go to France; they shall likewise have leave from the British General. Both the one and the other shall take with them their families, servants, and baggage.—"Granted."

Article XXXVII

The Lords of Manors, the Military and Civil officers, the Canadians as well in the Towns as in the country, the French settled, or trading, in the whole extent of the colony of Canada, and all other persons whatsoever, shall preserve the entire peaceable property and possession of the goods, noble and ignoble, moveable and immoveable, merchandizes, furs and other effects, even their ships; they shall not be touched, nor the least damage

done to them, on any pretence whatever. They shall have liberty to keep, let or sell them, as well to the French as to the British; to take away the produce of them in Bills of exchange, furs, specie or other returns, whenever they shall judge proper to go to France, paying their freight, as in the XXVIth Article. They shall also have the furs which are in the posts above, and which belong to them, and may be on the way to Montreal; and, for this purpose, they shall have leave to send, this year, or the next, canoes fitted out, to fetch such of the said furs as shall have remained in those posts.—"Granted as in the XXVIth article."

Article XXXVIII

All the people who have left Acadia, and who shall be found in Canada including the frontiers of Canada on the side of Acadia, shall have the same treatment as the Canadians, and shall enjoy the same privileges.—"The "King is to dispose of his ancient Subjects: in the mean time, they shall "enjoy the same privileges as the Canadians."

Article XXXIX

None of the Canadians, Acadians or French, who are now in Canada, and on the frontiers of the colony, on the side of Acadia, Detroit, Michillimaquinac, and other places and posts of the countries above, the married and unmarried soldiers, remaining in Canada, shall be carried or transported into the British colonies, or to Great-Britain, and they shall not be troubled for having carried arms—"Granted, except with regard to the Acadians."

Article XL

The Savages or Indian allies of his most Christian Majesty, shall be maintained in the Lands they inhabit; if they chuse to remain there; they shall not be molested on any pretence whatsoever, for having carried arms, and served his most Christian Majesty; they shall have, as well as the French, liberty of religion, and shall keep their missionaries. The actual Vicars General, and the Bishop, when the Episcopal see shall be filled, shall have leave to send to them new Missionaries when they shall judge it necessary.—"Granted except the last article, which has been al- "ready refused."

Article XLI

The French, Canadians, and Acadians of what state and condition soever, who shall remain in the colony, shall not be forced to take arms against his most Christian Majesty, or his Allies, directly or indirectly, on any occasion whatsoever; the British Government shall only require of them an exact neutrality.—"They become Subjects of the King."

ARTICLE XLII

The French and Canadians shall continue to be governed according to the custom of Paris, and the Laws and usages established for this country, and they shall not be subject to any other imposts than those which were established under the French Dominions.—"Answered by the preceding "articles, and particularly by the last."

ARTICLE XLIII

The Papers of the Government shall remain without exception, in the power of the Marquis de Vaudreuil and shall go to France with him. These papers shall not be examined on any pretence whatsoever.—"Granted, "with the reserve already made."

ARTICLE XLIV

The papers of the Intendancy, of the offices of Comptroller of the Marine, of the ancient and new treasurers, of the Kings magazines, of the offices of the Revenues and forges of St. Maurice, shall remain in the power of M. Bigot, the Intendant; and they shall be embarked for France in the same vessel with him; these papers shall not be examined.—"The same as "in this article."

ARTICLE XLV

The Registers, and other papers of the Supreme Council of Quebec, of the Prévoté, and Admiralty of the said city; those of the Royal Jurisdictions of Trois Rivieres and of Montreal; those of the Seignorial Jurisdictions of the colony; the minutes of the Acts of the Notaries of the towns and of the countries; and in general, the acts, and other papers, that may serve to prove the estates and fortunes of the Citizens, shall remain in the colony, in the rolls of the jurisdictions on which these paper depend. "Granted."

ARTICLE XLVI

The inhabitants and Merchants shall enjoy all the privileges of trade, under the same favours and conditions granted to the subjects of his Britannic Majesty, as well as in the countries above, as the interior of the colony.—"Granted."

ARTICLE XLVII

The Negroes and panis of both sexes shall remain, in their quality of slaves, in the possession of the French and Canadians to whom they belong; they shall be at liberty to keep them in their service in the colony or to sell them; and they may also continue to bring them up in the Roman Religion. —"Granted, except those who shall have been made prisoners."

Article XLVIII

The Marquis de Vaudreuil, the General and Staff Officers of the land-forces, the Governors and Staff officers of the different places of the colony, the Military and Civil officers, and all other persons who shall leave the colony, or who are already absent, shall have leave to name and appoint Attornies to act for them, and in their name in the administration of their effects, moveable and immoveable, until the peace; and, if, by the treaty between the two crowns, Canada does not return under the French dominions, these officers, or other persons, or attornies for them, shall have leave to sell their manors, houses, and other estates, their moveables and effects, &c., to carry away or send to France, the produce thereof, either in bills of exchange, specie, furs or other returns, as is mentioned in the XXXVIIth Article.—"Granted."

Article XLIX

The inhabitants, and other persons, who shall have suffered any damage in their goods, moveable or immoveable, which remained at Quebec, under the faith of the capitulation of that city, may make their representations to the British Government, who shall render them due justice against the person to whom it shall belong.—"Granted."

Article L. *and last.*

The present capitulation shall be inviolably executed in all its articles, and bonâ fide, on both sides, notwithstanding any infraction, and any other pretence, with regard to the preceding capitulations, and without making use of reprisals.—"Granted."

POSTSCRIPT

Article LI

The British General shall engage, in case any Indians remain after the surrender of this town, to prevent their coming into the towns, and that they do not, in any manner, insult the subjects of his Most Christian Majesty.—"Care shall be taken that the Indians do not insult any of the subjects "of his Most Christian Majesty."

Article LII

The troops and other subjects of his Most Christian Majesty, who are to go to France, shall be embarked, at latest, fifteen days after the signing of the present capitulation.—"Answered by the XIth Article."

ARTICLE LIII

The Troops and other subjects of his Most Christian Majesty, who are to go to France, shall remain lodged and incamped in the town of Montreal, and other posts which they now occupy, till they shall be embarked for their departure: passeports, however, shall be granted to those who shall want them, for the different places of the colony, to take care of their affairs. —"Granted."

ARTICLE LIV

All the officers and soldiers of the troops in the service of France, who are prisoners in New-England: and who were taken in Canada, shall be sent back, as soon as possible, to France, where their ransom or exchange shall be treated of, agreeable to the cartel; and if any of these officers have affairs in Canada, they shall have leave to come there. —"Granted."

ARTICLE LV

As to the officers of the Militia, the Militia, and the Acadians, who are prisoners in New-England, they shall be sent back to their Countries.

Done at Montreal, the 8th of September, 1760.

"VAUDREUIL."

Granted except what regards the Acadians. Done in the Camp before Montreal, the 8th September, 1760.

"JEFFERY AMHERST."

COMMISSION AS JUDGE TO JACQUES ALLIER[1]

Par son Excellence Monseigneur Jacques Murray Brigadier Général et Commendant en chef des Troupes de sa Majesté Britannique dans le Fleuve St Laurent Gouvernement de Quebec et des pays conquis—

Etant necessaire pour le bien et l'avantage des habitants des paroisses de Perthier et suivantes jusqu'à Kamouraska inclusivement et maintenir

[1] This appointment is apparently the first formal step taken, beyond the city of Quebec where, as we find, Colonel Young had been appointed civil and criminal judge, towards the regular administration of law within the conquered territory. Wolfe had issued several proclamations or manifestoes to the people below Quebec, promising protection to life and property on condition that they should lay down their arms; but before the capture of the city these had little effect. After the capitulation of Quebec, General Monckton, upon whom the command devolved in succession to Wolfe, published a manifesto permitting the inhabitants to return to their farms on giving up their arms and taking the oath of fidelity. These conditions most of the people in the villages and districts tributary to Quebec complied with. Writing to Pitt, October 8th, 1759, General Monckton explained that, owing to wounds received at the capture of Quebec, the surgeons had urged him to go south for the winter. He had therefore appointed "Brigadier Murray to act as Governor and Colonel Burton (who is second in Command) as Lieutenant Governor untill His Majesty's Pleasure be known, to which I have added the following very necessary Staff:

A Town Major
2 Town Adjutants for the upper & Lower Towns.
A Secretary.
A paymaster of the publick works.
A Barrack Master.
A Boat Master, to take care of the flatt bottomed Boats and floating Batteries, with some few others of inferior Rank, as Assistants.

As General Wolfe had appointed a Provost Marshal and had delayed giving him a Warrant only for the want of a Form, he being a very necessary officer here, I have given him a Warrant to act as such untill His Majesty's Pleasure be known." A. and W. I., vol. 88.

la police et le bon ordre dans les dites paroisses, d'y établir . . . justice. Ayant reconnu la bonne vie et mœurs et capacité en fait de justice de M. Jacques Allier, l'avons nommé et nommons juge civil & criminel, pour exercer dans les dites paroisses la justice sauf l'appel en la ville de Quebec devant le colonel Young juge civil et criminel en dernier ressort de la dite ville et païs conquis. Pour par mon dit Sieur Allier, jouir de la dite charge, aux charges, droits et honneurs et prérogatives y attachés—Ordonnons au dit Sieur Allier de recevoir les dites commissions sous peine de désobéissance après avoir prêté le serment entre nos mains sur les Saints Evangiles de s'acquitter en foi âme et conscience des devoirs de sa charge.

En foy de quoi nous avons signé ces presentes à icelles fait apposer le cachet de nos armes et contresigner par notre secretaire, —à Quebec—le seize Janvier—mil sept cent soixante—

(Signé)

L. S. JAS. MURRAY.

Par Monseigneur

H. T. CRAMAHÉ—

(*Translation.*)

By his Excellency James Murray, Brigadier General and Commander in Chief of His British Majesty's troops in the River St. Lawrence, Government of Quebec and the conquered territory.

It being found necessary for the wellbeing and profit of the inhabitants of the parish of Berthier and those lying beyond as far as Kamouraska inclusive, and for the maintenance of the police and good order in the said parishes, to establish Courts of justice therein, and knowing well the exemplary life, sound morals and capacity for the administration of justice of Mr. Jacques Allier, we have appointed and hereby do appoint him civil and criminal judge to execute justice in the aforesaid parishes—save in the matter of appeal in the town of Quebec before Colonel Young, the civil and criminal judge in final appeals of the aforesaid town and conquered territory. And that the said Sieur Allier may enjoy the said office with the fees, emoluments, rights, honours and prerogatives thereto appertaining—We order the said Sieur Allier to receive the said commissions under penalty of disobedience, after having taken oath between our hands on the Holy Gospels to perform the duties of his office with all loyalty, zeal and conscience.

In witness whereof we have signed these presents and have set to them the seal of our coat of arms, and have caused them to be countersigned by our secretary at Quebec, the sixteenth of January—one thousand seven hundred and sixty.

L.S. (Signed) JAS. MURRAY.

By Monseigneur

H. T. CRAMAHE.

PLACART DE SON EXCELLENCE MONSIEUR LE GÉNÉRAL AMHERST[1]

Par Son Excellence JEFFERY AMHERST, Ecuyer, marechal de camp, Commandant en chef Les troupes et forces de Sa Majesté le Roy de la grande Bretagne dans L'amérique Septentrionale, et son Gouverneur Général pour la Province de Virginie, &c., &c., &c.

Sçavoir faisons, que nous avons constitué et établi Monsieur Gage, Brigadier des armés du Roy, Gouverneur de la ville de Montréal et de ses dépendances: et que nous avons pareillement étably Monsieur Burton, Colonel des troupes de Sa Majesté, Gouverneur des trois Rivières et de ses Dépendances.

Que tous les habitants du Gouvernement des trois-Rivières qui n'ont pas encore rendu les armes ayent à les rendre aux Endroits nommés par Monsieur Burton.

Que pour D'autant mieux maintenir Le bon ordre et La police dans Chaque paroisse ou District, il Sera rendu aux officiers de milice leurs armes; et si par La suite il y avoit quelques-uns des habitants qui Désireroient en avoir, ils devront en demander la permission au Gouverneur, signée par le dit Gouverneur ou ses subdélégués, afin que L'officier des troupes, commandant au District ou ces habitants seront résidens, puisse sçavoir qu'ils ont Droit de porter les armes.

Que par nos instructions les gouverneurs sont autorisés de nommer à tous employs vacans dans la milice, et de débuter par signer des commissions en faveur de Ceux qui en ont dernièrement joui sous Sa Majesté très-Chrétienne.

Que pour terminer autant qu'il sera possible tous differens qui pourroient survenir entre les habitants à l'amiable, les dits Gouverneurs sont enjoints D'autoriser l'officier de milice Commandant dans chaque paroisse, ou District, d'écouter toutes plaintes, et si elles sont de nature qu'il puisse les terminer, qu'il ait à le faire avec toute La droiture et Justice qu'il con-

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[1] Immediately after the capitulation of Montreal General Amherst took measures for the establishment of a provisional military government, with summary courts of justice, until the ultimate fate of the country should be determined.

The French Division of the Province into three administrative Districts of Quebec, Three Rivers, and Montreal, was retained. In a despatch to Pitt, dated Quebec, October 4th, 1760, (A. and W. I., vol. 99) Amherst detailed his proceedings, from the day following the capitulation of Montreal. Though most of the measures reported were purely military, yet we have the following items as to civil administration. "15th * * * sent Officers with Detachments to the several Villages, to take in the Arms, and to administer the Oath of Allegiance."

"16th I appointed Col: Burton Governor of Trois Rivieres,"

"19th * * * I gave an Order for the Militia of the Town and Suburbs to give up their Arms and take the Oath of Allegiance to morrow, as soon as Monsieur de Vaudreuil is embarked."

"22d I appointed Br General Gage Governor of Montreal."

On the 22nd he also issued the proclamation or ordinance given above, which is not however enclosed in the despatch but is taken from "Mémoires de la Société Historique de Montréal," 1870, Part V, vol. I, p. 150. A similar proclamation was issued by Amherst in September for use in the District of Montreal. It is dated September, 1760, A. and W. I., vol. 94. Towards the close of the despatch to Pitt he thus refers to the measures taken: "I have fixed the form of Government that I judged would be easiest and best till "the King's Pleasure is known and if it meets with His Majesty's Approbation, I shall be very happy." *See also note to the next document.*

vient; S'il n'en peut prononcer pour lors il doit renvoyer les parties devant l'officier des troupes Commandant dans son district, qui sera pareillement autorisé de décider entre eux, si le cas n'est pas assés grave pour exiger qu'il soit remis devant le gouverneur même, qui, dans ce Cas, comme en tout autre, fera rendre Justice où elle est due.

Que les troupes, tant dans les villes que dans leurs Cantonnemens sont nourries par le Roy en nature, et qu'il leur est ordonné expressément de payer tout ce qu'elles achetent de l'habitant en argent Comptant et espèces sonnantes.

Que tout propriétaire des Chevaux, de Charettes, ou autres voitures qui seront employés, soit par les troupes, ou autres, seront également payés en Espèces sonnantes pour Chaque Voyage, ou par Journée qu'ils auront été ainsy employés, et Cela suivant Le tarif et sur le pied de dix schellings argent de la nouvelle York, par jour, pour chaque Charette ou traineau portant un millier pezant; et une Journée de Cheval à raison de trois schellings D'york.

Les Maitres des postes auront attention de ne louer ny fournir, a qui que ce soit, sans un ordre par Ecrit de nous, ou des Gouverneurs *Gage*, *Murray*, et *Burton*, ny chevaux, ny calèches appartenantes aux Bureaux des dites postes, et Ceux à qui il en sera fournis comme ci-dessus, payeront pour un cheval a raison de 17 sols, argent de la nouvelle york, par chaque trois milles angloises ou lieue de France; Ceux qui prendront cheval et calèche payeront le double, mais il leur sera permis d'y aller à deux personnes.

Que le peu de secours que le Canada a reçu de la France depuis deux années, l'ayant épuisé de Bien de rafraichissement et de nécessaire, Nous avons pour le bien commun des troupes et de l'habitant recommandé par nos lettres aux differens gouverneurs des Colonies angloises les plus proximes du Canada d'afficher et publier des avis à leurs Colons pour se transporter icy avec toutes sortes de denrées et de rafrachissemens, et nous nous flattons qu'on ne tardera pas de voir remplir ce Projet; et, lorsqu'il Le sera, un chacun en sera instruit pour qu'il puisse y participer au prix courant et sans impots.

Le Commerce sera Libre et sans impots a un chacun, mais les Commerçants seront tenus de prendre des passeports des gouverneurs, qui leur seront expédié gratis.

Comme il est expressément enjoint aux troupes de vivre avec l'habitant en bonne harmonie et intelligence, nous recommandons pareillement à l'habitant de recevoir et de traiter les troupes en frères et Concitoyens. Il leur est encore enjoint d'écouter et d'obéir tout ce qui Leur sera ordonné tant par nous que par leurs Gouverneurs, et Ceux ayant droit de nous et de Luy; et tant que les dits habitants obéiront et se conformeront aux dits ordres, ils jouiront des mesmes privileges que les enciens sujets du Roy, et ils peuvent Compter sur notre protection.

Voulons Et entendons que notre présent ordonnance soit luë, publiée et affichée ès lieux accoutumés.

Fait à Montréal, le 22 7bre. 1760, Signée de notre main et scellée du sceau de nos armes.

(Signé), JEFFERY AMHERST.

(*Translation*).

PLACARD FROM HIS EXCELLENCY GENERAL AMHERST.

By His Excellency Jeffery Amherst, Esquire, Field Marshal, Commander in Chief of the troops and forces of His Majesty the King of Great Britain, in North America, and His Governor General for the Province of Virginia, etc., etc., etc.

Be it known, that we have constituted and appointed Mr. Gage, Brigadier of the King's armies, Governor of the town of Montreal and of its dependencies; and that in like manner we have appointed Mr. Burton, Colonel of His Majesty's troops, Governor of Three Rivers and its dependencies.

That all the inhabitants of the Government of Three Rivers who have not yet given up their arms, are to give them up at the places named by Mr. Burton.

That for the better maintenance both of good order and police in each parish or district, their arms shall be delivered up to the officers of militia; and if thereafter there shall be any of the residents who desire to have them, they must ask for a permit from the governor, to be signed by the said governor, or by his subdelegates, so that the officer of the troops, commanding the district in which these persons are residing, may know that they have the right to carry arms.

That according to our instructions, the governors are authorized to nominate to all posts vacant in the militia, and may begin by signing commissions in favour of those who have lately enjoyed such posts under His most Christian Majesty.

That in order to settle amicably as far as possible all differences which may arise amongst the inhabitants, the said governors are charged to authorise the officer of militia commanding in each parish or district, to hear all complaints, and if they are of such a nature that he can settle them, he shall do so with all due justice and equity; if he cannot decide at once, he must send the parties before the officer commanding the troops in his district, who shall in like manner be authorised to decide between them, if the case is not sufficiently serious to require its being brought before the Governor himself, who in this, as in every other case, shall administer justice where it is due.

That the troops, in the towns as well as in their cantonments, are provided for by the King in kind, and that it is expressly ordered that they shall pay for all that they buy from the inhabitants in ready money and specie.

That all proprietors of horses, carts or other vehicles who shall be employed, either by the troops, or others, shall likewise be paid in specie for each journey, or by the day, when they shall have been thus engaged, and the latter shall be according to the tariff and at the rate of ten shillings, money of New York, per day for each cart or sleigh carrying a thousand pounds weight, and a horse by the day at the rate of three York shillings.

Masters of posts shall be careful neither to let out nor furnish to any one soever, without a written order from us, or from the Governors Gage, Murray, or Burton, either horses or carriages belonging to the offices of the said posts, and those to whom they shall be furnished, as above stated, shall pay for a horse at the rate of 17 cents, money of New York, for every three English miles or French league; those who shall take a horse and carriage shall pay double, but two persons shall be allowed to go in it.

That the meagre support which Canada has received from France for the past two years having exhausted her wealth, her supplies, and her necessaries, we have for the common good both of the troops and the habitant, given orders in our letters, to the different governors of the English colonies nearest to Canada, to post up and publish notices to their colonists to repair hither with all sorts of provisions and supplies, and we flatter ourselves, that we shall see this project carried out without delay; and, as soon as it is done, everyone will be notified so that he may have his share in it, at the current rates, and without duty.

Trade will be free to everyone without duty, but merchants will be obliged to take out passports from the governors, which will be furnished them gratis.

As it is specially enjoined on the troops to live with the habitants in harmony and good fellowship, we likewise recommend the habitant to receive and treat the troops as brothers and fellow-citizens. It is further enjoined upon them to hearken to and obey all that is commanded them, whether by us or by their governors, and those having authority from us and them; and so long as the said habitants shall obey and conform to the said orders, they shall enjoy the same privileges as the ancient subjects of the King, and they may rely on our protection.

We desire and require that our present ordinance be read, published and posted in the usual places.

Given at Montreal, the 22 7ber 1760, signed by our hand and sealed with the seal of our arms.

(Signed,) JEFFERY AMHERST.

6-7 EDWARD VII., A. 1907

Ordinance Establishing Military Courts.[1]

Delapart de Son Excellence, Monsieur Jacques Murray, Gouverneur de Quebec, &c.[2]

Notre principalle Intention ayant été dans le Gouvernement Qu'il a plû à Sa Majesté Britannique de nous confier de faire rendre la Justice a ses Nouveaux sujets, tant Canadiens que françois Etablies dans la ville et coste de ce Gouvernement: Nous avons crû egalement Necessaire d'établir la forme de proceder, de fixer le jour de nos Audiances, ainsi que ceux de notre Conseil Militaire que nous avons établis en cette ville afin que chacun puisse sy conformer dans les affaires qu'ils auront a faire Juger en nos audiances ou celles que nous Jugerons nécessaires de renvoyer aud. Conseil: A ces causes Nous avons reglé et ordonné, reglons et ordonnons par le présent Reglement ce qui suit.

Art. 1er

Toutes plaintes ou affaires d'interets civils ou Criminels, nous seront faites par placets ou Requetes adressantes à Nous les quels seront remises Néantmoins a M. M. Cramahé Notre Secretaire qui les répondra pour que les Assignations soient ensuitte donnés par le premier huissier aux parties adverses aux fins de comparaitre pour déffendre en notre audiance suivant les Delays marqués eu egard a la distance des lieux.

2e

Les Jours de nos audiances seront le Mardi de chaque semaine depuis dix heures du matin Jusques a Midi et se teindront en notre hotel a commencer Mardi prochain 4 Novembre.

3e

Les placets ou Requestes qui auront été réponduës par notre Secretaire dans la forme expliqué par l'art. 1er signiffié aux parties adverses et le delay de l'assignation expirés seront remise à notre secretaire la veille de l'audiance, c'est a dire le Lundi pour l'audiance de Mardi sans quoy elles ne seront point Jugés, et Remise a la prochaine audiance.

4e

Les parties adverses qui auront quelques papiers ou écritures servant a la deffense de leur cause seront pareillement tenus de les remettre a notre

[1] The general system of justice and administration established by Amherst and Murray was approved by the King through the Earl of Egremont, successor to Pitt as Secretary of State, in a despatch to Amherst, December 12th, 1761. This system continued until the introduction of civil government in 1764, and its general character is summarized in the preamble to the Ordinance of 20th September, 1764, which confirmed the judgments given in the military courts.

[2] From "Registre de la cour militaire" folio I. Vol. I. Quebec.

secretaire la veille de l'audience sinon sera fait droit sur la demande de la Partie.

5e

Sy les parties assignés n'ont aucune écriture a produire, elles seront tenus de comparoir en notre audiance au Jour de l'assignation, soit en personne ou par procureur, sinon il ne sera donné aucun deffaut, et sera pareillement et sera pareillement fait droit sur le seule assignation qui leur aura eté donné afin deviter la Longueur des procédures et la Multiplicité des frais.

6e

Si la trop grande quantité d'affaires ne pouvoit permettre de les Juger toutes dans une seule audiance elles seront remises a la prochaine et les parties tenues dy comparoir sans autre assignation.

7e

Les Jugements qui seront rendus en notre hotel a l'audiance seront executés sans appel et les parties contraintes dy satisfaire suivant ce qui sera prononcée a l'exception des affaires que nous Jugerons de Renvoyer au Conseil Militaire, pour estre Jugés, les quelles seront remises a un des Conseillers que nous nommerons qui en fera son Raport au Conseil pour sur iceluy estre fait droit a qui il Appartiendra.

8e

Le Conseil de Guerre s'assemblera les Mercredi et Samedi de chaque semaine et se tiendra en la maison de M. de Beaujeu rue St. Louis.

9e

Les Jugements rendus en notre audiance ainsi que les arrets Militaires seront écrits sur le Registres par le Greffier que nous avons Commis pour cet effet, et les expeditions par luy délivrés aux parties.

10e

Tout ce que dessus sera éxécuté tant pour la ville que pour les campagnes a l'exception Néantmoins des différents que les habitants des Costes pourroient Avoir entr'eux pour raison de Clostures, Dommages, ou autres cas provisoires, dont nous renvoyons la connoissance au comdt de la troupe dans chaque coste qui les Jugera sur le champ, sauf l'appel au Conseil Militaire sy le cas y échoit et quil y ait matiere.

Et sera le présent Reglement luë publié et affiché tant dans les lieux et endroits accoutumés de cette ville, que dans chaque Costes de ce gouvernement, a ce que personne n'en pretendent cause d'ignorance, et ayt a s'y

conformer. Interdisons toutes autres Cours et Jurisdictions, qui auroient put etre etablies tant dans la ville, que dans les fauxbourgs et Campagnes.

Fait et donné sous notre scel et le contreseing de Notre Secretaire, a Quebec le 31 8^{bre} 1760.

"JA..MURRAY.

"*Par Son Excellence.*
"H. T. CRAMAHÉ."

(*Translation.*)

By His Excellency Mr. James Murray, Governor of Quebec, etc.

Our chief object having been, in the government which it has pleased His Majesty to entrust to us, to ensure the administration of Justice to his new subjects, Canadian as well as French, settled in the town and neighbourhood of this Government, we have likewise thought it necessary to establish the form of procedure; to fix the day for our audiences, as well as those of our military council, which we have established in this town: to the end that every one may conform to it, in the causes that they may require to have judged at our courts, or such as we may think necessary to send to the said Council. For this reason, we have ruled and ordered by the present regulations as follows:

1st Article

All compliants, or matters of civil or criminal interest shall be brought before us by petitions, or requests, addressed to us, which shall, however, be delivered to M^{r} H. Cramahé, our secretary, who shall return them, so that the summons may then be delivered to the defendants by the first bailiff, so that they may appear to defend themselves in our Court, at the time appointed, regard being paid to the distance of the places.

2^{d} Article

The Court days shall be Tuesday in each week, from ten in the morning till noon, and they shall be held at our residence, beginning with next Tuesday, the 4th of November.

3rd Article

The petitions, or requests which shall have been returned by our secretary, in the manner explained in the first article, having been served on the defendants, and the term allowed in the summons having expired, shall be re-delivered to our secretary, on the day before the hearing, that is to say, on the Monday, for the hearing of Tuesday: failing this, they shall not be judged, but shall be postponed till the next sitting.

4th Article

The defendants, who shall have any papers or writings available for the defence of their cause, shall likewise be obliged to deliver them to our secretary, on the day before the hearing, otherwise judgment will be given on the demand of the plaintiff.

5th Article

If the parties summoned have no writing to produce they shall be obliged to appear at our Court, on the day fixed, either in person or through an attorney, otherwise no plea will be allowed them for default, and in like manner judgment will be given, on the single summons which shall have been served on them, in order to avoid long lawsuits, and the increase of costs.

6th Article

If the excessive amount of business does not allow the judging of all cases at a single sitting, they shall be postponed till the next one, and the parties shall be obliged to appear, without other summons.

7th Article

Judgments which shall be delivered at our Residence at the Court, shall be executed without appeal, and the parties shall be compelled to give satisfaction according to what shall be decreed, with the exception of such cases as we may think fit to send to the Military Council to be tried; which shall be delivered to one of the Councillors whom we shall name, who will make his report to the Council, so that judgment may be given on the same for him to whom it shall belong.

8th Article

The Council of War shall assemble on the Wednesdays and Saturdays of each week, and shall be held in the house of M. de Beaujeu, rue St. Louis.

9th Article

Judgments given in our Courts, as well as the military decrees, shall be inscribed on the register, by the registrar whom we have appointed for this purpose, and copies delivered by him to the parties.

10th Article

All the above shall be executed, as well for the town as for the country; with the exception however of disputes that the habitants of the district may have amongst themselves, with respect to enclosures, damages, or other provisional cases, of which we authorize the commandant of the troops to

take cognizance in each locality and try summarily, reserving appeals to the Military Council, if the case pertains thereto, and there is reason for it.

And the present regulation shall be read, published and posted in the usual places and precincts of this town, as well as in every part of this government, that no one may urge the plea of ignorance, and that all shall be compelled to conform to it; and we interdict all other courts and jurisdictions which may have been established as well in the town, as in the suburbs and country.

Executed and given under our seal, and countersigned by our secretary, at Quebec, the 31st October, 1760.

(Signed) JA. MURRAY.

By His Excellency,

(Signed) H. T. CRAMAHÉ.

SESSIONAL PAPER No. 18

GENERAL MURRAY'S REPORT OF THE STATE OF THE GOVERNMENT OF QUEBEC IN CANADA JUNE 5TH, 1762.[1]

My Lord,—In obedience to his Majesty's Commands signified in Your Lordship's dispatch to Sr. Jeffery Amherst of the 12th December last I have the honor to transmit the following account of His Majesty's Government of Quebec and dependancies thereof; however deficient it may prove Your Lordship may be assured it has been my earnest desire, as it is my constant study to fulfil my Royal Masters intentions.

The better to effect the same, and in order to state the several interesting matters of this Report in the clearest light, I shall divide the whole under the following heads.

1st—Return of His Majesty's Forces in His Government of Quebec and dependancies thereof.
2nd—State of the Fortifications
3rd—State of the Government under the French Administration.
4th—The Revenues and Expenses.
5th—Church Government.
6th—Indian Nations.
7th—Nature of the Soil and its produce.
8th—Population.
9th—Trade.
10th—Character of the People.

I shall subjoin some remarks pointing out the Errors of the Ancient System, and wherein by my own observations and the best information I have been able to procure, there is room for alterations or amendments.

Quebec

General and Staff Officers

The Honorable James Murray, Esqr. Governor.

The Honorable Lieut[t] Colo[l] Maitland D:A:G: Governor Murrays leave to the Southern Colonies.

Lieut[t] Colo[l] Irving, Deputy Quarter Master General.

Hector Theop[s] Cramartie, [Cramahé] Secretary to the Governor.

Lieut[t] Mills, Town Adjutant.

Captain Malone, Barrack Master.

Captain Cosnan, Town Major. Governor Murrays leave to England for the recovery of his Health.

Zachariah Thompson, Captain of the Ports.

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[1] In the despatch of Lord Egremont to Sir Jeffrey Amherst of 12th Dec., 1761, in which the King approves of the system of military government established in the districts of Quebec, Three Rivers, and Montreal, he instructs him to send, for His Majesty's information, a full account of the newly-acquired countries. In response to this command communicated to Murray, Burton, and Gage, we have this and the two following Reports, which were transmitted to the Government by Sir Jeffrey Amherst. These Reports were among the documents submitted to the Board of Trade for their information in preparing a plan of government for the territories ceded to Britain by the Treaty of Paris of 1763. See p. 130.

ENGINEERS

Captain Lieut[t] Spry
Lieut[t] Montresor } Established
Captain Holland, Assistant.

OFFICERS OF HIS MAJESTY'S HOSPITAL

Mr. Francis Russell, Chief Surgeon.
Mr. Field
Mr. Mabane } Mates.
N-B[e] Mr. Zachariah Flitner, Provost Martial.
Benjamin Gable—Hangman.

2. STATE OF THE FORTIFICATIONS.—Quebec. The natural situation of the ground which the present front of the fortification is built upon towards the land, is very disadvantageous. Cape Diamond is nearest the River S[t] Laurence, and is likewise the highest ground, from whence there is a continued slope, sometimes very quick, toward the River S[t] Charles, in consequence of which the walls not being built upon a level, but humouring the nature of the ground, the flanks of the Bastions cannot defend their opposite faces in a proper manner, for the flanks of the higher Bastions, must fire below the horizontal line, as the flanks of the lower ones must throw theirs above it. To remedy this defect, the French built two Counter guards or Fausse-brays with Casemated flanks, before the right face and flanks of Laglaciere Bastion, and the left face and flank of Bastion S[t] Louis; this however introduced another inconvenience, of which they appeared sensible when Mons[r] de Levis besieged the Town in 1760, as He directed his fire to this place, which had such an effect, the rubbish of the Wall filling the Counter guard, and that from the lower the ditch, that an easy ascent might have been very soon made to the breach.

The high grounds before Cape Diamond and Laglaciere Bastions command all the lower fortifications toward the River S[t] Charles, and batteries for battering in breach may be erected at any distance, as the walls are high and seen in many places to the bottom of the Ditch, there being no covered way or outworks and even the counterscarp wall not well finished, neither can a covered way be constructed, but at a great expense, on account of the scarcity of Earth and irregularity of the ground, besides that it must be crowded with traverses to prevent its being enfiladed.

To make up in some measure the want of outworks, in the Winter 1759, I erected a line of Blockhouses within musquet shot of the capital wall to secure the body of the place against surprises, such outworks are proof against Musquetry only.

The Walls are built of an irregular unwrought stone and in many places the work is very badly executed as was sufficiently visible from the effect of the fire from the French batteries in 1760.

The Gates are ill placed and not defended. S^{t} Louis Gate is so near the right face of the Bastion of the same name, that it is beneath its fire, and the opposite flank can have but very little fire on it, that of S^{t} Johns has the same fault, being too near the left flank of S^{t} Johns Bastion.

The Palace gate is not much better constructed, and in general this whole front of the place, which indeed is the only fortified one, is enfiladed from the other side of the River S^{t} Charles.

The Wall from Bastion Lapotasse to Palace gate, is pierced with loop holes, and is good in its kind. The Barracks which are built against it being also provided with loop holes serve as a second fire. This Wall is continued to K and is built upon a Rock.

From K to L is a very bad stockade on the top of an accessible rock, with one small stockaded place of arms. This is the part of the Town most exposed to a coup de main.

From L to T there is a high Wall with a wooden gallery behind it, to serve as a banquette, and beneath it is a sally port to communicate with the lower Town.

From T to the saut au Matelot is a wall begun but carried no higher than Man is able to step upon it, there are some plat-forms for Cannon and Mortars. From M to M (*sic*) is the Royal Battery commanding the River S^{t} Laurence and built upon an inaccessible rock adjoining to the Bishop's palace, part of which was taken in during the late siege to defend the communication from the lower to the higher Town, which was also defended by some Cannon planted at O.

From O to P takes in Fort S^{t} Louis and a nine gun battery; it is by nature inaccessible except two small paths shewn in the plan. Fort S^{t} Louis is of no defense being the remains of the earliest fortifications erected there.

From P to Q the Citadel or Redoubt of Cape Diamond, is a quick or rather steep ascent, defended by a stockade only. Betwixt this Redoubt and the Bastions of La Glaciere and Cape Diamond is a commanding grownd overlooking the whole Town and Fortifications. This grownd I judge very proper for the construction of a Citadel.

From Q to R the same sort of stockade is continued, and from R to Cape Diamond there is a Wall with loop-holes, defended by two small flanks with Cannon. The rocky hill under these parts is very high, but accessible and in many places cover'd with brush, by the help of which small parties might advance to the very stockades.

The lower Town is only cover'd by a Stockade and some batteries; The Batteries marked q are to defend the road and annoy the shipping in passing the Town. The Batteries t, are for the same purpose. They serve likewise to flank the lower Town and the other Batteries.

From the above report and annexed Plan[1] it appears that the Enceinte of Quebec is very large and would require a very strong Garrison to defend

[1] Plan not given.

it tho properly fortified . . . That at present it is open on two sides, has no out works not even a cover'd way nor hardly a ditch, for the foot of rotten walls is to be seen from most of the Environs at the distance of 500 Yards. That the whole Rampart is enfiladed from the other side of the River S^t^ Charles, and that in its present situation, with a Garrison of 3,000 Men it is not proof against a well conducted Coup de Main. Any temporary works that can be added, would be of little signification, as matters now stand; and to fortify the place upon the old plans is by no means adviseable, the situation never can be render'd strong, and the attempt must cost an immense sum . . . . . I therefore am of opinion that if His Majesty shall think proper to be at the expense of strengthening Quebec, the most effectual method will be to erect upon the rising ground of Cape Diamond, a Citadel which will answer every purpose of the Towns being strongly fortified, may be defended 4 months at least by a small garrison, awe the Inhabitants, whose fidelity in case of an attack we cannot for some Years rely on, and secure our Magazines. The Ground I propose for this Citadel commands the whole Town and is commanded no where from the Country; in short it possesses every advantages to be wished for, and at a small expense may be fortified, as the Inhabitants of the Country and the Troops in the time of peace may contribute their labor towards it gratis; to this the former can have no objection as they were on all occasions formerly liable to Military services and were all allow'd only provisions.

I order'd Captain Holland to take an accurate survey of the ground and have the honor herewith to transmit the several plans he has drawn in consequence.

I cannot slip the opportunity of recommending this Gentleman to Your Lordship's notice—He came to this Country in 1756, and ever since the siege of Louisbourg I have been myself a witness of his unwearied endeavors for the King's service, in a word, He is an industrious brave Officer, and an intelligent Engineer, in which capacity he would be desirous, and deservedly merits to be advanced.

Jacques Cartier

This is a small facine fortification upon Cape Santé, begun by the French during the Campaign in 1759, but not completed 'till the retreat of their Army after the action of the 13^th^ September.—This post served them as a frontier all that ensuing winter, commands the River Jacques Cartier, towards which from the situation of the Ground, it is extremely strong, but it is not capable of the least resistance, if attacked on the other side—It is of no use to us at present, as it no where commands y^e^ main River.

Deschambeaux

About four leagues above the Jacques Cartier, is the point Des Chambeaux—This place may be fortified to very good advantage, and in my

opinion, is the strongest and most important post in the Country. It naturally divides the whole into two parts, is the only road or avenue from lower to upper Canada, on this side of the S^{t} Laurence, and commands the rapids of Richlieu; by erecting batteries on the small island of that name, and some fortifications on the South shore the passes by Land and by Water may be rendered equally difficult, which is better explained by the survey and plan of the fortifications hereto annexed.

3.—State of the Government under the French Administration.

The Governor General was Chief in all Military, and the Intendant in all Civil, affairs; The latter superintended the justice, police and finances of the Government, he heard and judged definitively in all trifling causes, appeals from the inspector of Highways were referred to his decision; he issued regulations for the police of Town and Country, and emitted his ordonnances, fixing a price upon all kinds of provisions at his will and pleasure.

For the easier administration of justice, He commissioned three sub-delegates, residing at Quebec, Montreal, and Three Rivers, who took cognizance of such matters as were not very intricate, but from their judgments the parties might appeal to the Intendant.

The Prevôte of Quebec was a Court of Justice, composed of a Lieu^{t} General, a Lieutenant particulier, a procureur du Roy or Kings Attorney; they judged all matters Civil in the first instance, and all appeals from their sentence were brought before the Counseil Superieur, the Prevôte likewise took cognizance of appeals from the private jurisdictions, which could be carried from this Court before the Conseil Superieur.

In capital crimes, or such as deserved severe penalties, the Lieu^{t} General called into his assistance two of the most eminent Lawyers, but still their sentence could not be carried into execution, untill the same was confirmed by the Conseil, at which seven of the members at least must be present.

Attending this Court were six Notaries public a Clerk and six Huissiers, of which one was Cryer.

The Governments of Trois Rivieres and Montreal had each their Lieu^{t} General, a Kings Attorney, Clerk Notaries and Huissiers.

From these several Courts, appeals were brought before the Conseil Superieur, established at Quebec, composed of a first Counsellor who generally presided and eleven others, of which one or two were priests, these never were present in Criminal matters; The other Officers attending this Court were an Attorney General, a Chief Clerk, and a premier Huissier.

At Quebec was also a Court of Admiralty, consisting of a Lieu^{t} General, Commission'd by the high Admiral of France, a King's Attorney, a Clerk and Huissier, this Court took cognizance of Maritime affairs, and appeals from thence were carried before the Conseil Superieur.

There was also an Inspector of the High Roads or Grand Voyer, who had the regulation of all matters relative to them, difficulties which arose from this Officers regulations were decided by the Intendant.

The only Laws were the Kings Edicts or the Arrets of his Council of State, register'd at the Council Superieur, and the Intendants ordonnances—In matters of property they follow'd the customs of Paris, but in marriage settlements they were at liberty to follow the Custom of any other province in that Kingdom.

The age of Majority was fixed at 25, but at 18 or upon marriage, the Council granted them Letters of emancipation, which intitled them to enter immediately into the enjoyment of the moveable and incomes of their estates—Guardians were chosen by an assembly of seven of the nearest relations of the minors, and for want of these, of so many of their friends.—A public act is drawn out, of this transaction, which is register'd and the person elected is sworn to administer faithfully.

Fiefs.—1st The tenure of Lands here is of two sorts The fief or seigneuries –These lands are deemed noble, on the demise of the possessor, his eldest son inherits one half, and shares with the other Children in the remainder, if any of these die without posterity, the Brothers share the portion of the deceased, exclusive of their sisters; The purchasers of these fiefs enter into all the privileges and immunities of the same, but pay a fifth of the purchase money to the Sovereign who is Lord of the Soil. By Law the Seigneur is restricted from selling any part of his Lands that is not clear'd, and is likewise obliged (reserving a sufficiency for his own domain) to concede the remainder to such of the Inhabitants as require the same at an annual rent not exceeding one sol, or one half penny sterling for each Arpent (*a*) in superficies. The Seigneurs have had the right of Haut, Moyenne et basse justice on their several fiefs, but this was attended with so many abuses and inconveniences that the inferior jurisdictions were mostly disused.

Terre en Roture.—2d The Lands conceded by the Seigneurs is the second sort of tenure, and these are called terres en roture.—The property is entirely in the possessors, and the rent they pay can never be raised upon them. They can sell it as they please, but the purchaser is obliged to pay a twelfth part of the purchase money to the Seigneur. The Children of both sexes share equally in those Lands, but if upon a division the several parts are found unequal to the subsistence of a family they are obliged to sell to one another: By Law no man can build upon a piece of Land of less extent than one Arpent and a half in front, upon a depth of 30 or 40. This was done with a view to promote cultivation, and to oblige the Inhabitants to spread. Edicts have been published from time to time, to reunite to the Crown such Lands, as were not settled within a term of years prescribed, the last of these was published in 1732, a copy of which is annexed. (No. 1.)

(*a*) An Arpent consists of ten perches each 18 feet French measure.

The Canadians are formed into a Militia for the better regulation of which, each parish in proportion to its extent and number of inhabitants, is divided into one, two, or more Companies, who have their proper Officers, Captains, Lieutenants, Ensigns, Majors, Aide Majors, Sergeants, etc., and all orders or public regulations are addressed to the Captains or Commanding Officers, who are to see the same put in execution. From these companies detachments are formed, and sent to any distance and in 1759 and 1760 the whole were in arms for the defence of their Country.

Observations.—The Intendant's fixing a price upon provisions at his own will and pleasure, was liable to much abuse, for tho' the Country was abounding with all kind of grain, yet under pretence that a large quantity was wanted for the Kings service, repeated levies were made upon the inhabitants, through every part of the province, proportionably to what it was supposed they could spare, the Intendant paying such price as he pleased to set upon it, great part of which grain was afterwards exported by his emissaries to the French Islands, and when a scarcity was apprehended, they sold the remainder to the public at an advanced price.

Under the pretence of a scarcity of black Cattle, and before the British Troops had made any impression upon the Colony, Horses were killed and served to the Troops, probably to excuse the exorbitant charge for all kind of provisions purchased on the Kings account, for notwithstanding the waste made by two contending Armies, and that the French Troops lived entirely upon the Country for near two Years, we have the strongest occular proof, there was no occasion to have recourse to this expedient, if the Kings officers had not meant it as a Cloak for their Knavery.

2[d]—The members of the Courts of Justice were mostly natives of old France, and minded more their own affairs than the administration of justice. Their decisions were therefore not much respected; and indeed for success the parties generally depended more upon the favour of the protection of the great, than upon the goodness and justice of their cause.

3[d]—Tho' the Governor General, the Bishop and the Intendant, were by their several Offices, Presidents of the Council, and that heretofore they used to be present at their deliberations, in latter times they never honor'd it with their presence, a circumstance that contributed much to the general disesteem, into which this part of the judicature had fallen.

4—The Office of Grand Voyer or Inspector of the High roads, under proper regulations and restrictions seems to be highly necessary for the care and benefit of the interior Commerce.

5—The Canadians mostly of a Norman Race; are, in general, of a litigious disposition; The many formalities in their procedures and the multiplicity of Instruments to be drawn up upon every occasion, seems to encourage this disposition—A short and well digested Code, by laying aside many of these, may in a great measure serve to correct it.

6[th]—Fixing the age of Majority as in other parts of his Majestys dominions, is an innovation that could not fail of being agreeable to the

Youth, as the freedom of building where they see convenient, and upon such extent of ground, as they think proper, would be acceptable to all people in general and promote new establishments, especially the Fisheries in the lower parts of the River and Gulph of S^{t} Laurence.

4. Revenues and Expence of the Government under the French Administration

Tho' I should properly give a state of the Revenues and expense of the Government of Quebec only, yet the whole under the French administration was so blended together it does not appear practicable to separate the same, and have therefore collected here all that has come to my knowledge on this head, without distinction of Governments. 1st—Five ports, (*a*) part of the Kings domaine which were under the immediate management of the director General of it; He furnished them at the Kings expense with the Merchandize and effects proper for the Indian Trade or Fisheries which were carried on at these several ports and received from thence likewise on the Kings account the Furs, Oil, Fish or other produce of the same.

They had been farmed but the Lease expired in 1756, they were advertised and no one bidding for them on account of the War, the Intendant lest the Indians should quit their usual haunts, ordered them under the foregoing management, which continued untill our arrival, tho' the expense far exceeded the produce.

Sterling about					
£291:13:4			I here set them down at the highest rent paid for them when farm'd, under the French Government.....	7,000	
2^{d}.....			Duty on Liquors imported		
£0	0	10	Wine by the Hogshead.....	12	
£0	1	8	Rum by the Hogshead.....	24	
			1 Veldt or measure of 2 Gallons of Brandy.....	1	4
			½ Ordinary wine bottled p^{r} Bottle.....	1	
			1½ Bottled sweet wine p Bottle.....	3	
			5 Eau de Vie de Liqueur p. Gallon....	10	
£8,018	2	3	These several duties produced in 1757	192,434	14 0
3^{d}.....			Lots and Ventes. This arises from the sale of Houses and Lands en roture, upon those in the King's possession. The purchaser paying him a twelfth as his immediate Lord.		
£921	13	11½	This produced in 1757.....	22,120	15 2

(*a*) Five ports—Tadousac, Chicotini, Mal baye, Islet de Feremie, Sept Isle.

4th.....Cent et Rentes, or Ground Rents of Houses built on the King's Lands in the City and Suburbs of Quebec.

These are very trifling as they let to the individuals for no more than six derniers, one Sol six derniers, trois sols six derniers or 5 Sols per annum.

These were collected in 1759 for 29 Years together and produced only..

¼,	¾,	1¾,	2½	£93	2 9

2,235 6 2

5th.....Duty (*b*) on dry goods imported.

This produced in 1757.....

£3,363 18 3½

80,733 18 4

———a Tariff was fixed regulating what each species of goods was to pay, those that were trifling were valued, and paid 3 pr Cent of their Valuation.

N.Be.—Cordage of all sorts, Salt and produce of the Fisheries, and other Trade in the River St Laurence were exempted from this duty.

6th.....Duty on dry goods exported (*a*)

This produced in 1757.....

£1,601 15 0½

38,422 1 5

There was a Tariff (*b*) likewise for these in which all kinds of Furs were included as the East India Company had the exclusive privilege of buying and exporting all the Beaver of the Country paying the owner 4 Livres a pound for the green or winter Beaver, and one livre 10 sols for Parchment or Summer Beaver, the Company paid the King a duty of 3 pr Cent for the quantity exported according to the above rate.

Duty on the exportation of Moose Deerskins—This duty was of two Livres pr Skin, and was the first established in the Colony. The exportation of this Article has been

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(*b*) No 2.

(*a*) All sorts of provisions of the growth of Canada, Goods for the Indian Trade in the lower parts of the River, Horses, Shipping Country built, Timber of all kinds, and Salt Herrings were exempted from this Duty.

considerable, but was of late Years much diminished.

£56 3 4 In 1757 it produced..... £1,348 0 0

8th.....In 1749, a Tax was laid upon every House within the City and Suburbs of Quebec for repairing the Barracks and keeping the same in order. The reparation was made by the Officers of Justice and a deputy from the Trade approved by the Governor General and the Intendant.

£562	2	8¼	In 1749 it amounted		to.....	13,491	3	9
552	2	6	" 1750	"	to.....	13,351	0	0
578	7	6	" 1751	"	to.....	13,881	0	0
552	2	6	" 1752	"	to.....	13,351	0	0
570	17	6	" 1753	"	to.....	13,701	0	0
569	8	4	" 1754	"	to.....	13,666	0	0
578	16	3	" 1755	"	to.....	13,891	10	0
571	7	1	" 1756	"	to.....	13,713	10	0
572	11	6	" 1757	"	to.....	13.741	0	0
563	13	4	" 1758	"	to.....	13,528	0	0

It is pretty remarkable that notwithstanding the Tax was levied from the Year 1749, inclusive, the King's Edict ordering the same to be raised from the ensuing January is dated only in June 1763.

Besides the foregoing there were certain casual duties, such as—

1st Droit d'Aubaine—a Foreigner dying intestate and without Children the King succeeded to his Estate.

2nd Droit de Deshérences. Likewise to Estates which fall to persons under monastic vows, and therefore incapable of inheriting, or to persons illegitimate who dye without posterity and intestate.

3d Droit d'Epaves—Where Whales or wrecks are drove ashore above the high water mark, all expences first deducted, the King had one third, the High Admiral another and the person who saved it the remainder.

The Receipts in 1757 stood thus.

£8,018	2	3	To raised on Liquors imported.....			192,434	14	0
921	13	11½	"	"	on the Lots and Vents.....	22,120	15	2
3,363	18	3½	"	"	on dry goods imported.....	80,733	18	4
1,601	15	0½	"	"	on d° exported.....	38,442	1	5
56	3	4	"	"	on Moose Deer Skins exported.....	1,348	0	0
£13,961	12	10½	Total.....			335,079	8	11

Expence of Government 1757

523	10	0	By duties paid on Liquors imported for the Kings account.....			12,564	0	0
2,719	3	9	By sundry Contingent expenses.....			65,260	0	0
3,242	13	9				77,824	0	0

The particulars of this sum were

1st Expences of Criminal Suits, apprehending and guarding criminals, Expences of Evidence, etc., 26,004 13 2 This article of expence varied every Year more or less, it seldom exceeded the above and has been as low as 10,000.

2d Maintenance of Foundlings and Bastards Children of the Three Governments at the rate of 10 Liv. pr Month 18,511 6 8. This likewise varied, one Year it amounted to 24,000.

3d Public Works and High Roads 9,494 15. This also varied. It has often exceeded 12,000.

4th Expence of Public Prisons and subsistence of Prisoners 11,249 15 2. This article exceeded the usual expence on account of the English Prisoners.

653	5	3½	By the Cantine of the Troops in the Three Garrisons.....			15,678	7	2

This was a Douçeur allow'd the Staff of each Garrison. The Town Major made out rolls of the Soldiers of each Garrison and these were certified by

			the Comptroller of the Marine. It was supposed three half pints of Wine p[r] day were imported for their allowance the duty on the amount of which was returned by the receiver General.		
			This perquisite was shared among the Governors who had one half of it the Staff divided the other half.		
			Proportion of the several Governments in 1757.		
			Quebec	8,063	3 7
			Montreal	6,122	0 0
			Trois Rivières	1,493	3 7
41	13	4	By allowed the Attorney General for making out a State of the Kings Rents	1,000	0 0
923	6	11	By Duties paid on goods imported for the Kings account	21,160	6 3
1,540	1	6½	By Salaries of Officers and other expences attending the receipt of the Kings Revenues	36,961	17 1
£6,401	0	10		153,625	0 6
			This last article comprehends,		
			1[st] (*a*) The Salaries of Clerks, Landwaiters and other Revenue Officers 27,792 11 6.		
			2[d] Usual (*b*) gratifications 1,270.		
			3[d] By sundry other expenses, trifling Repairs of Office	200	0 0
			House rent of D°	4,000	0 0
			Fuel for D°	1,450	0 0
			Repair of Canoes	400	0 0
			Stationery	999	0 0
			Salary of the Clerk of the Treasurer General of the Marine	600	0 0
			To a Gauger	250	0 0

(*a*) A list of these for 1758, is annexed N°. 3. That for 1757 did not come into our hands.

(*b*) This article of gratification was to reimburse the Governor and other Officers, what it was supposed they paid for duties The Governor General received of this 600..... 25 : 0 : 0
The Intendant..... 450..... 18 : 15 : 0
Governors Secretary..... 75..... 3 : 2 : 6
Intendants D°..... 145..... 6 : 10 : 0

1270 53 : 7 : 6

The foregoing expences were not always the same and were paid upon the Intendants orders, and by his directions in which they differed from the following which was called Etat du Roy du Domaine, and was the Establishment paid by a Yearly order from the King signified by his Warrant signed in Council and which generally amounted to 114,000 Livres or there abouts.

ETAT DU ROY DU DOMAINE

			By expences of Forts and Garrisons Governor General as Governor of the Town and Castle of					
125	0	0	Quebec			3,000	0	0
157	1	8½	Pay (*c*) and Provisions of the Garrison			3,770	0	0
20	0	0	Fuel of D°			480	0	0
75	0	0	Lieut[t] du Roy			1,800	0	0
50	0	0	Town Major			1,200	0	0
33	6	8	Captain of the Gates			800	0	0
460	8	4½					11,050	0 0
			Montreal					
125	0	0	Governor (*a*)			3,000		
54	3	4	Pay of the Garrison			1,300		
83	6	8	Lieut[t] (*b*) du Roy			2,000		
50	0	0	Town Major			1,200	7,500	0 0
			Trois Rivieres					
125	0	0	Governor			3,000		
54	3	4	Pay of the Garrison			1,300		
75	0	0	Lieut[t] du Roy			1,800		
50	0	0	Town Major (*c*)			1,200	7,300	0 0
1,077	1	8					25,850	0 0

(*c*) As no Garrison was kept either at Quebec, Montreal or Trois Rivières the above were perquisites to the several Governors.

(*a*) This Officer had by way of gratuity from the Marine Chest 1000 Livres and ½ p[r] Cent from the East India Company on the Beavor they exported amounting to about 1500 more.

(*b*) The Lieutenants du Roy had each 1800 Livres, the Senior of these had a gratuity of 200 besides, the Lieut[t] of Montreal was the senior in 1757.

(*c*) The Town Major had a perquisite of 2 Barrels of Powder each for the use of their Garrisons, but as they did not exist, they received each in lieu thereof from the Storekeeper 250 Livres. Each Gov[r] also paid his Town Major 100 Livres for signing the Rolls.

			By paid to Religious uses				
112	10	0	To the Clergy (*d*) and in aid of building Churches	2,700			
333	6	8	To the Chapter of Quebec	8,000			
83	6	8	To the support (*d*) of superannuated Priests or Missionaries	2,000			
316	13	4	As a supplement (*d*) to Cures of Poor Parishes	7,600			
554	3	4	To the Jesuits for their Missions and a Professor of Hydrography	13,300			
50	0	0	To the Recollets of Quebec	1,200			
62	10	0	To the Convent of Ursulines	1,500			
312	10	0	To the Convent of the Hôtel Dieu	7,500			
83	10	0	To the Convent of the Hospital General	2,000	45,800	0	0
			At Montreal				
83	10	0	To the Hospitalieres	2,000			
125	0	0	To the Filles de la Congregation	3,000			
			By the Salaries of Officers of Justice				
20	16	8	To the first Conseiler of the Conseil Superieur (*e*)	500			
187	10	0	To 10 others at 450 each (*f*)	4,500			
62	10	0	To the Attorney General	1,500			
29	3	4	To the Greffier	700			
4	3	4	To the Huissier	100	12,300	0	0
3,498	5	0			83,950	0	0
			Salaries of the Officers of Prevôte of Quebec.				
29	3	4	Lieut[t] Gen.[l] Civil and Criminal (*g*)	700			
25	0	0	Lieutenant Particulier	600			
12	10	0	Proceureur du Roy	300			
4	3	4	Greffier	100	1,700	0	0

(*d*) (*d*) (*d*) These were distributed by the Bishops.
(*e*) Of late Years he had a Gratuity of 450[lb] from the marine.
(*f*) There was a vacancy of one this Year. The Salary of Three Eldest had of late Years been augmented with a gratuity to each of 150 Livres also from the Marine.
(*g*) This officer had of late Years obtained an addition of 300 Livres out of the Marine fund.

Montreal

18	5	0	Lieutenant Gen[l] Civil.....	450			
10	8	4	Proceurer du Roy.....	250	700	0	0

Trois Rivieres

18	5	0	Lieutenant Gen[l] Civil.....	450			
10	8	4	Proceurer du Roy.....	250	700	0	0

Salaries of the Officers of Police

25	0	0	To the Grand Voyer (*a*).....	600			
20	16	8	To the Prevost des Marechaux de France (*b*).....	500			
12	10	0	To an exempt under Him.....	300			
29	3	4	To 4 Archers (*c*) 175 Livres each	700			
13	15	0	To a Hangman.....	330	2,430	0	0
3,728	6	8			89,480	0	0

By expenses of the Hospital at Quebec

50	0	0	Salary to a Pysician.....	1,200			
50	0	0	First Surgeon.....	1,200			
33	6	8	Second Surgeon.....	800			
25	0	0	Midwife.....	600	3,800	0	0

By Sundry extraordinary expences

41	13	4	Publication of the decrees of Council.....	1,000			
4	3	4	Expences of Fuel (*d*) in y[e] Council room.....	100			
8	6	8	Travelling Charges of the Archers.....	200			
20	16	8	Allow'd the Bishop in lieu of Duties paid by him.....	500	1,800	0	0

(*a*) This Officer had likewise an allowance of 10[lb] p[r] diem extraordinary when upon his duty. If the Inhabitants applied to him to make out roads for their own private advantage they were at all the expenses attending the same.

(*b*) This Officer likewise had an allowance of 7[lb] 10[s] p[r] diem travelling charges when out upon the execution of his office.

(*c*) These were severally allowed 3[lb] p[r] diem when sent in pursuit of Deserters or other Criminals.

(*d*) This was a perquisite to the Lieutenant General and as the firing would have cost three times as much, the Intendants supplied the same out of the King's Yard.

			By paid to the Establishment of Louisberg, a Pension to the Count of Gacé son to the Marquis of Matignon in lieu of some land taken into the				
50	0	0	Kings hands.....	6,000			
333	6	8	D° to the Religious Brothers of la Charite.....	8,000			
62	10	0	D° to the Nuns of La Congregation.....	1,500			
50	0	0	D° to 4 Councellors at 300 each	1,200			
16	13	0	D° to the Proceureur General All at same place.....	400	17,100	0	0
83	6	8	By a pension to a Botanist at Louisiana.....		2,000	0	0
4,757	10	0	Total of the Etat du Roy.		114,180	0	0

THE SALARY AND PERQUISITES OF THE GOVERNOR GENERAL

£500	0	0	From the Marine Funds appointments.	12,000
125	0	0	From D° allowance for freight of necessaries from France.....	3,000
125	0	0	From the Domaine as private Gov^{r} of Quebec.....	3,000
157	1	8	From D° Pay of the Garrison.....	3,770
25	0	0	From D° in lieu of what he paid for duties.....	600
			From the Marine a Company of Guards Call'd the Carabineers to attend him. They had usually two or three, and public or state days they found people enough to complete the number.—They consisted of	
58	6	8	A Captain at.....	1,400
41	3	4	Lieutenant.....	1,000
25	0	0	Ensign.....	600
233	15	0	17 Private at 27^{lb} p^{r} Month.....	5,610
			From the E. Indian Comp^{y} a present of 2 p^{r} C^{t} on all the Beaver exported by them, valuing the whole upon an average of 2^{lb} p^{r} pound. This varied every Year but upon a medium may	
250	0	0	be set down.....	6,000

			His share of the Cantine as set down above.	
167	19	2	This likewise varied in 1757 it produced	4,031
			For Belts of Wampum presented by the Savages to the Governor at the several Conferences he had with the different tribes which Belts he sent to the Kings stores to be worked up into another Form, and for which the	
83	6	8	King paid him.....	2,000
1,792	2	6		41,011

THE SALARY AND PERQUISITES OF THE INTENDANT

500	0	0	From the Marine appointments	12,000	
125	0	0	From D° allowance for Freight of necessaries from France...	3,000	
18	5	0	From the Domaine in lieu of duties he paid.....	450	
			From the E. India Comp^{y} a present of one and a half per C^{t} on all the Beaver exported by		
187	10	0	them at a medium.....	4,500	
50	0	0	From the Marine allowance for a Secretary.....	1,200	
50	0	0	From D° for a Gardiner.....	1,200	
930	15	0		22,350	
			From the foregoing it appears that the Country duties raised in 1757 together with the other Revenues belonging to the King produced that Year		
13,961	12	10½	the sum of.....		335,079 8 11
			From which deducting the Etat du Roy amounting to 114,180. And the expenses ordered on this side by the Intendant		
11,158	10	5¼	153,624 10 6.....		267,804 10 6
2,803	2	5¼	Remained a surplus of.....		67,274 18 5

Which surplus when there was any, was paid by the Receiver General of the Kings domaine, into the hands of the Commis of the Treasurer General

of the Marine as an addition to that Fund, out of which all the general expences were paid. Such as the Subsistence and provision of the eight Battalions, Forty Companies of Marines and Detachment of Royal Artillery serving in Canada, the officer of the naval Yard of Quebec, and in short all the ordinary and extraordinary expences attending the Military and Civil Government of Canada the officers of the Court of Admiralty only excepted, who were paid by the High Admiral of France.

The expence of Government in this Country was formerly very moderate, for a series of Years to that of 1726, it never exceeded 360,000 Livres; the two ensuing ones it was advanced to about half a Million, on account of the Colonies being at War at that time, with the Indian nation of Renards. From this period it gradually increased to a Million, and from the breaking out of the war with Great Britain in 1744, till peace was concluded with her in 1748, the annual expence amounted to about 2 Millions.

In the month of August in that very Year the late Intendant M[r] Bigoe came over, the expences have ever encreased and to 1753 inclusive did not amount to less than three, four, or five Millions every Year.

		In 1754 Bills were drawn on France for.....	6,000,000
		1755.....	5,500,000
		1756.....	8,000,000
		1757.....	12,000,000
		1758.....	24,000,000
		1759.....	30,000,000
		1760 The Intendant was directed not to exceed two Million four hundred thousand Livres and drew only for	1,300,000
		To the above is to be added the Paper Money remaining in the Country, andfor which no Letters of Exchange have been drawn...	22,000,000
4,533,333	6 8	.....	108,800,000
3,333,333	6 8	Of the whole upon the most moderate computation, at least 80 Millions are still owing	

The manner of transacting the business is thus. The Intendant for every expence emitted the ordonnances, which passed current with his bare signature only, one of which, (No 4.) is annexed to shew the nature of it; in August notice was given to the proprietors, to bring into the Treasury within the Month of September, and untill the 10[th] of October, the Ordonnances in their possession, for which they took the Treasurers receipt, and commenced drawing the Letters of Exchange, which continued fifteen or twenty days, or till the navigation was shut up.

From the Year 1740, to that of 1746 Letters of Exchange were drawn only for three fourths of the value brought into the Treasury; these indeed

payable in 6, 7, 8, or 9 months, when they were duly discharged, the remaining fourth was reimbursed the proprietors, by a Card Money, of which there is to the amount of near a Million still existing in the Colony.

From 1746, to 1752, Letters of Exchange were drawn for the full sum brought into the Treasury and were all made payable sometime within the ensuing Year.

But the expences having encreased considerably orders were given to to divide those of the Year into three equal parts payable in 1, 2, or 3 Years. This was put in execution in 1753, but the very Year following another arrangement took place; only one fourth part was made payable in the course of the ensuing Year, one half two Years after that and the remaining fourth in three; and this Method was ever after observed 'till the Year 1760. By this means a great number of those drawn in the preceding Years, were not come in course of payment, when the Kings Arret of October 1759 suspended payment entirely

NB[e] the Clerks of the Marine and other Officers employ'd in that department, having left the Country it has not been possible to procure certain accounts of the expences of that branch.

Throughout these calculations and in every other part of this Report, The French Livre to avoid Fractions is esteemed at ten pence Ster[lg].

Observations.

1[st] I had the Honor to inform the Lords of the Treasury very fully of the state of the Kings ports, in a Letter to M[r] Martin their Secretary, of the 7[th] November last, at the same time that I transmitted all accounts relative thereto by M[r] Ainslie whom I intrusted with the management of them until I could receive instructions from home, I am thoroughly persuaded the proposal I therein made to their Lordships of selling them to the highest bidder, for a Term of Years, is the surest expedient to make them profitable to His Majesty.

2—The duty on Liquids will ever bring in a considerable sum, for tho' the Canadians in general are not much given to drunkenness, Yet Men, Women and Children are used to drink a certain quantity of strong Liquors, the severity of the Climate having probably introduced this practice. By the great improvement likely to be made in the Fisheries the consumption of these will considerably increase.

3—As the Canadians seem thoroughly reconciled to the use of British made Corn spirits, the consumption thereof could suffer no diminution, from a moderate duty upon the same of 6[d] p[r] Gallon, and that of Rum or New England Spirits might be raised to a Shilling, this would check the importation of the latter and favor that of the former, that the Revenue may not suffer by this measure, it will be necessary to prevent any attempts which may be made of smuggling by the Lakes while they are navigable as well as when they are to be travelled over with carriages.—The like precaution

will be necessary to be taken for the lower part of this River, which abounds with little bays, Creeks, and Rivers favorable for such practices, as detrimental to the fair Trader as to the state itself.

4th—As there have been few or no purchases made since we have been in possession of Canada, the people having no money and being uncertain of their fate, the Lots et Vents, have produced nothing considerable; when a settlement takes place this branch of the Revenue will probably receive a large encrease.

5—The tax upon Houses in the City and Suburbs of Quebec for the support of the Barracks, could not be levied upon the Inhabitants since the Town has been in our possession, as great part of it was in ruins, and many of these who were formerly wealthy have been reduced to great distress thereby, besides that it might prove a disencouragement to the rebuilding it.

6—As probably it may be thought right, not to receive the duties on dry goods, a Tax upon Horses might be introduced in lieu thereof, it would serve also to restrain a piece of luxury the people of this Country are too apt to run into, in that respect, and prove a means to encourage the breed of horned Cattle of which at present by the unavoidable waste of War, they are very short, besides, as Cattle must be housed here for a long time during the Winter, the Horn'd kind are fodder'd with more ease, less cost, and afford a double utility.

7th—The small salaries given by the French Government to the Civil Officers in general made them neglect their duty and wreck their invention to cheat and trick both King and People; This was carried to such a length that many instances may be cited of clerks and men in petty Offices with Yearly Salaries of only Six or Eight Hundred Livres, raising to themselves in the compass of three or four Years Fortunes of three or four hundred thousand.

8.—Before I close this article I must add that the duty on Wine may be easily revived without distressing the people or lessening the consumption, as there is no doubt that an additional one may be raised hereafter upon spirits. But it must be observed, that the lighter the burthens are laid at present upon the people, the more it will ingratiate their new Masters, the more it will enable them to repair their past losses and the sooner they will be in a condition to contribute a proper portion to the public expences.

5th

Church Government.

The Bishop.

When the Bishoprick of Quebec was first established in 1674, the See was endowed by Louis the 14th with the Revenues of two Abbacies, those of Benevent and L'Estrees; about 30 Years ago the Bishop then finding it

difficult, considering the distance, to recover the revenues of them by consent of Louis the 15th resigned the same to the Clergy of France, to be united to a particular revenue of theirs stiled the *Æconomats* applied to the augmentation of small livings. In consideration of which the Bishop of this See has ever since received 8,000 Livres out of the said Revenues. A few Years before the late Bishops death, the Clergy of France granted him for his life only a further pension of 2000 Livres. The Bishop had no estate whatsoever, except his palace in Quebec destroyed by our Artillery, a Garden and the Ground rent of two or three Houses adjoining it and built upon some part of the land.

The Chapter of Quebec.

The Chapter consists of a Dean and twelve Canons; Their revenue consisted of an Abbacy in France which brought them in about 4000 Livres and a pension from the King of Eight Thousand paid out of the Domaine. The whole was divided into fourteen shares of which the Dean had two.

There is one vacancy in the Chapter, the present Dean the Abbé de la Corne, a Canadian and five of the Canons are in France.

Parish of Quebec.

The Town and Suburbs form but one parish which is very extensive and is served by a Curé and two Vicars under him. The Church is Parochial as well as Cathedral, no part of it is left standing but the bare walls; a Chapel of ease in the lower Town was likewise burnt during the Siege. The people at present perform their devotions in the Chapels of the several religious communities. Some part of the Lordship of Quebec is the property of the Cathedral or parish Church, stiled here La fabrique and is appropriated to the repairs of it; a dispute subsists between the Chapter and the seminary about the nomination of the Curé, the affair was to have been judged by the King but was still undetermined.

The Jesuites.

They possess a large commodious House, a handsome Chapel and a spacious Garden within the upper Town, the House and Chappel suffer'd a good deal from our artillery, but might be easily repaired; no other place in the Town being so proper, it has and is still made use of as a Magazine of Provisions. For this reason it was necessary to dislodge the Fathers the first Winter, less their turbulent and intriguing genius should prompt them to play some trick which might have proved fatal in the critical situation of affairs and which they could perhaps have easily compassed had they been suffer'd to reside in the House. After the capitulation of Montreal they were readmitted and conveniently lodged in one wing of it and have freely consented to His Majesty making use of the remainder.

Their particular province is the instruction of Youth and the Missions of the Savages, the King allow'd them on account of the latter, 13,300 Livres.

They have a very large estate in the Country and hold some lands in the Town en Roture, but are Lords of very large tracts in this Government, and of very considerable ones in the other two. They possess in that of Quebec the best part of the large and rich parish of Charlebourg, that of Lorette and most of S^{t} Foix. By the best accounts their revenues cannot be short of 30,000 Livres p^{r} annum and most probably exceed it; of which in this Government about Eleven Thousand. They have only two Missions here, one to the Hurons at Jeune Lorette near Quebec, the other to the Montaignais at Tadousac and Chicoutimi. The whole number in Quebec Govern^{mt} the two Missionaries included is 9. The Superieur is nominated in France and holds the Office generally six Years.

The Recollets.

This is an order of Mendicant Friars who possess nothing of their own but a House and Garden in the upper Town. They had a piece of ground in the suburb of S^{t} Rock on which they formerly had a house and church, which has been abandoned for some Years. A small part of the Intendants buildings is erected upon a piece of this Land, in consideration of which under the French Government they were paid fifty Louis a Year from the Marine by way of charity as they can receive no rents. They acted as Chaplains to the Army, and at the several Forts or posts and failure of regular Clergy served the vacant Curés.

They have a provincial Commissary resident here, who superintends the whole order in Canada, sent from France and changed every three Years. The present one has discharged it twice, on account of the War. They have in this Government.....
Fathers.....10
As Servants or Brethren..... 9——19

Seminary of Quebec.

These are Secular Clergy: Their institution is to educate the Youth and fit them for the priesthood. They have a large House and Chapel in the City of Quebec, both in a ruinous condition ever since the siege of 1759. It is a dependance upon the seminary for Foreign Missions at Paris, who nominate the superiors and directors of that of Quebec, but their estates are not entirely distinct; besides the Island of Jesus in the Government of Montreal, they possess part of the Lordship of Quebec & the whole extent of the country from the Saut de Montmorenci to the Riviere du Goufre in the Bay of S^{t} Pauls inclusively and the Island of Coudres. This immense tract does not bring them in very considerably, their great Revenues in these parts arising from the two large Farms in the Parish of S^{t} Joachim,

where before the breaking out of the war, they had between three and four hundred head of Cattle; on their estate in the Bay of S^{t} Pauls they discover'd some Years ago a Lead mine, the Veins which have been tried are slight, but two Germans who were brought over to the Country, on account of the like discoveries in the upper Country, examined this and thought it worth working; the War has prevented making further Essais upon it. The income of their estate in this Government may be estimated at about 9,000 Livres p^{r} Annum. They consist at present of only the Superior and four directors.

Convent of the Hotel Dieu of Quebec.

This is a community of women, particularly instituted for the care of the Sick; They had been in good circumstances but their House having been entirely consumed by Fire, a few Years ago, they are considerably indebted for the rebuilding of it.

This house has two distinct estates and Purses, the one belonging to the community, the other to the Poor—The former owes about 108,000 to different Artificers, and for sums borrowed towards rebuilding the Convent.

They have a Rent charge upon the Hotel de Ville at Paris which brings them in.....	1330 Livres	
A Seigneurie in Charlebourg with estates & gardens in this Town.....	3500	
For its share of the 7500 p^{d} by the King.....	3000	7830

They keep some pretty large Farms in their hands Cultivated by their domesticks, out of the produce whereof they are at present chiefly subsisted.

Number of Nuns..... 36

The Poor have a charge on the Hotel de Ville at Paris

Foundation of a Dutchess D'Aiguillon...	646	12	0
The Lordship of S^{t} Augustine.....	1,200	0	0
Their other estates in the suburb of Quebec including a small one in the Island of Orleans produce about.....	500	0	0
Their part of the Kings bounty was.....	4,000	0	0
	6,346	12	0

They are not at present in circumstances to take in any.

Convent of the Ursulines at Quebec.

This is likewise a community of Women, their institution is for the education of Young Girls.

They have a Rent charge on Hotel de Ville at Paris.....	1,400	0	0
A Farm in Normandy.....	950	0	0

The Lordship of Portneuf in this Country and S^{t} Croix, about.....	772	0	0
Their other estates in and about Town about.....	960	0	0
Nuns 38.	4,082	0	0

The chief estate of this community consists in their Boarders, and a number of little ingenious works, for which there is a great demand, by means of which they are enabled to live very decently and comfortably.

The General Hospital near Quebec.

This is a community of Women, they have a Foundation for taking care of Thirty Invalids, Idiots or Incurables, which they are at present in no condition to fulfil, their revenues being no way equal to the expence, and as a large sum is owing them by the King of France for the sick of his army. In the time of the French they were allowed rations for as many of the above as they took in and a pension of 2,000 Livres. The Ladies of this community are of the best Families in Canada and by the presents they were continually receiving from them they were chiefly enabled to subsist: That revenue is now at an end, as the Gentry in general are at present in the most distressed circumstances.

They owe a very large debt contracted in a good measure for the support of the sick Officers and Soldiers of the French Army. The French King owes them a large sum, sufficient to discharge it, but they must be reduced to the utmost beggary and distress if he does not; The sale of all their houses and Lands will scarce be sufficient to satisfy their Creditors.

Their whole estate in this Country does not bring them in at the most above.	5,000 Livres.
A rent on the Hotel de Ville at Paris....	1,800——6,800

Their Number	Nuns.....	33
	Invalids.....	33——66

Les Filles de la Congregation

This was an institution for teaching Young Girls to read and write; they take the vows but are not cloister'd and go abroad about their affairs. They are poor. However besides what they possess in the other two Governments they had a House in the lower Town destroy'd by our Artillery, one at Point au Tremble and one with a small Farm at S^{t} Famille in the Island of Orleans.

Their number at present in this Government..... 4

This Government is divided into 50 Parishes some of which are small, and not thoroughly inhabited as Yet: For want of regular Clergy, several of the Recollets serve Cures, and in some places one Curé serves two, the whole

is under the inspection of a Vicar General at present, during the vacancy of the See.

Observations

1st The Canadians are very ignorant and extremely tenacious of their Religion, nothing can contribute so much to make them staunch subjects to his Majesty as the new Government giving them every reason to imagine no alteration is to be attempted in that point.

2...Care was taken under the former Government to keep up a great part of the Clergy French, especially the dignified part: To prevent the further importation of these, it would be necessary to encourage the natives to engage in the profession, which cannot be so well done, except the See is filled up, as without a Bishop there can be no ordination: some difficulty will attend this, as it is unendow'd tho' hereafter means may be found of making up this deficiency.

3d...A like difficulty occurs in relation to the Chapter, their number indeed might be reduced by letting the vacancies lye dormant, if some provision cannot be made for them as will hereafter be proposed.

4th...An expedient to assist the people in rebuilding their great Church, would much ingratiate their new Masters with them.

5th...The Jesuites are neither loved nor esteemed in general, and this order may be easily removed whenever the Government shall think proper without giving offence, out of part of their Estate provision might be made for the Bishoprick, and Chapter which would ease the Crown of further expences on that head.

6th The Recollets is an order of Mendicants, as they depend upon charity for subsistence, they are careful not to give offence; probably should they find the Inhabitants upon the present change, cool towards their Order, they will of themselves seek a better living somewhere else.

7th The Seminary educates the Youth, and fits them for Orders, it will be necessary to preserve and encourage this House on that account, and it is to be observed, this was the only Religious House or order, that heretofore did not participate of the French King's Bounty.

8th As to the communities of Women they are much esteemed and respected by the People, the narrowness of their circumstances will probably prevent their being filled up so easily as in former times; when the Canadians become a little more reconciled to British customs and Government, it may not be amiss under colour of serving those communities in their distressed situation, to restrict the admission of any under a certain sum; this regulation with another fixing a certain age, under which no vows to be taken, would probably soon reform the worst abuses of such institutions.

9th...There are some few French Protestants in this Country who no doubt will be willing to remain, it would be a great comfort to these, if a Church was granted for their use, and some French Clergyman of sound

sense and good Character, with a tolerable salary, was invited to settle among them, such an establishment may be attended with the further good consequences of enticing many of their Brethren in France, to come and enjoy that religious liberty, after which they so ardently sigh, amidst a people sprung from the same origin, speaking the same language, and following the same Customs. It may likewise be conducive towards bringing about a Reformation, by slow degrees and must at least prove to the Canadians there is nothing in our Holy Religion repugnant to Virtue or Morality.

6th

INDIAN NATIONS RESIDING WITHIN THE GOVERNMENT

In order to discuss this point more clearly I shall first take notice of the Savages on the North shore of the River S[t] Laurence from the Ocean upwards, and then of such as inhabit the South side of the same River, as far as the present limits of the Government extend on either side of it.

1[st] The Savages on the North shore. The first to be met with on this side are the Esquimaux, these are the wildest and most untamable of any, and are emphatically stilled by the other Nations, Savages. They never dress their food but eat fish rotted in the Sun and drink the oil it produces. Travellers represent them hardy, active and expert navigators: In the summer they come with their whole Families in Chaloups to fish in the streights of Belisle, these they leave in the Bays, and go out themselves to a considerable distance in Canoes made of skins wherein they sew themselves up. Their clothes and sails of their Vessels are made of the skins of wild beasts; They are reckoned treacherous, and have had many encounters with the French and Canadians employ'd on the fisheries in those parts. Their Language is not understood but a few words they make use of nearly resemble the dialect of some of the most northern European Nations. A few here have trafficked with them and made a considerable advantage by it, but they never agreed well together; any trade with the Esquimaux however must be precarious; The Coast is rocky and difficult of access, the season for navigation short, and the risks too great to entice adventurers; they have never been known to come on this side of La Forteau.

2[d]—The Montagnais or Monsonies inhabit a vast tract of Country from Labrador to the Saguenay; they are again distinguished into those who live in the inland parts call'd Nascapies, and the inhabitants of the water side, for this reason stilled Chuchouxlapishouets. They take as many different names as they have Villages but are all the same people, and speak the same language. As in the interior parts of the Country there are many Lakes and Rivers which communicate with Hudson's bay, the former often trade on that side, which the latter also would have been obliged to do, if

the interruption caused by the War, had continued for any time, tho' from the more convenient situation, they would have ever reverted to those who were Masters of the River S^{t} Laurence, those are the mildest and most tractable of all Savages and never enter into War. Tho their country is extensive their number is inconsiderable; From Labrador to Mingan the Traders do not reckon more than from Eighty to one Hundred Families, and of those who resort to the King's Posts, there may be about 220 Families in all, but as their habitations are easily moved they are ever changing and shifting from one place to another.

A Jesuit Missionary meets them at Tadousac when they come there for the trade and he resides in the neighbourhood all the Year.

3^{d}...The most civilized of all the Indians in this part of the World are the Hurons settled at a little Village called Jeune Lorette about 3 leagues from Quebec. These are called Roman Catholicks and are a decent well behaved people, it is now many Years since they removed there from their ancient habitations about Lake Huron or Erie, are settled upon lands belonging to the Jesuites, and live in much the same manner as the Canadians. They have excellent good Houses, Cultivate their own lands and live upon the produce: In the Hunting season they go into the woods and hunt themselves or traffic with the more remote Indians for their Pelletries. Some of the Elders have been so tenacious of their Mother tongue, they hardly speak a word of French, but most of the Younger ones speak it tolerably well; indeed it has ever been the policy of the French Government to make them retain that and as much of their ancient customs as possible, that they might prove of greater use to them in case of war with other nations, at the same time they endeavour'd to attach them to their Interest by every tie. A Missionary resides among them, they have a neat Chapel, where divine service is constantly performed at which all the Savages assist with a punctuallity and decorum worthy of imitation by more enlightened people; They seem to be well satisfied with the change of Masters, and were so particularly pleased at their Village having been spared during the Winter 1759, tho' forced by the French to abandon it, that they never could prevail on them to act with any degree of vigor against us. They have at present but 32 Warriors and the whole Village, Men, Women and Children are short of 100. Their number is decreased at least one half within these forty Years, and the Tribe would by this time have been almost extinguished but for the supplies they got by captures in War, and the sale of unhappy infants whose Parents chose to conceal their own shame at the expence of such iniquitous bargains.

2^{d} *Savages upon the South Shore*

These have wandered about the Country so very much and have been so unsettled by the continued Wars and frequent revolutions that have happen'd in this part of the Continent, it is hard to give any tolerable

account of them at this time. By the best informations we have been able to collect, the Miamies were settled, and some are still, about the Bay des Chaleurs, and upon the Coast and Bays in the Gulph, they are not at present numerous. In 1759 about one hundred of them joined the French.

The Kanibas and Malecites, inhabit about the Rivers S^{t} John and Pentagouest; their Language and that of the Abenakies is pretty nearly alike, and the three Nations are a good deal intermixed. The latter were settled about Narantsauc and Panaouanské, now wander about the South shore, and range the woods as they find it best answer their purpose, with those of the same tribe at S^{t} François and Beaconcourt in the Government of Trois Rivieres, it is computed they may amount to twelve or fifteen hundred families and in 1759 about 600 fighting Men of these Nations joined the French army near Quebec.

Under the French these were the only Indians who resorted to this place, where they received from the Government presents of Powder, Shot, Vermillion and other trifles; in time of War Clothing and Provisions.

Montreal was the chief seat of the Fur-trade and the greatest concourse of remote and back Indians or of those who traded with them, was there. There the Governor General used to meet and confer with their Chiefs and all business relative to them was mostly transacted.

From the Governor of Montreal therefore Your Lordship will certainly get fuller and better accounts on this head than I can possibly give. (*a*)

I have and ever shall be attentive, that due justice as far as in my power shall be done to them; few Complaints have as yet been made, when there have been any they have met with instant redress.

7th

Nature of the Soil and its Produce

With a very slight cultivation all sorts of grain are here easily produced, and in great abundance, the inhabitants are inclinable enough to be lazy, and not much skilled in Husbandry, the great dependancies they have hitherto had on the Gun and fishing rod, made them neglect tillage beyond the requisites of their own consumption and the few purchases they needed, the Monopolies that were carried on here in every branch, madè them careless of acquiring beyond the present use, and their being often sent on distant parties and detachments. to serve the particular purposes of greedy and avaricious Men without the least view to public utility, were circumstances under which no country could thrive; As they will not be subject to such inconveniences under a British Government, and being necessarily deprived of arms they must of course apply more closely to the culture of their Lands.

The mines already discover'd, and the mineral and sulphurous waters in many parts of this Country leave no room to doubt, nature has been bounti-

(*a*) No. 5. Extract of a Letter giving some account of the Trade of the upper Country.

ful to it in this respect, and that further discoveries and improvements are likely to be made with regard to these, whenever it becomes more populous. Notwithstanding the waste of war, which they have much more severely felt from their pretended friends, than from their declared foes, the Country will abound in three or four Years with all kind of provisions, sufficient not only to answer their home consumption, but even to export if a Market can be procured.

Observations

1st...They grow both Hemp and Flax in some parts of the Country, and many of the Lands are well cultivated for this Production. It will be right to turn the thoughts of the people towards the cultivation of this article, so essential to Great Britain and for which she annually pays great sums to Foreigners, a few premiums properly disposed of, some Germans and Russians skilled in raising and preparing the same and encouraged for that purpose to become settlers here may in a short time greatly improve this most useful branch of Agriculture.

2d..This will be one means of employing the Women and Children during the long winters in breaking and preparing the flax and Hemp for exportation, will divert them from manufacturing coarse things for their own use, as it will enable them to purchase those of a better sort manufactured and imported from Great Britain.

8th

POPULATION

The present state of population may be easily seen by the annexed (*a*) Account of the number of people in this Government taken about a twelve month ago.

There is great reason to believe this Colony has been upon the decrease in this respect for near twenty Years past, the Wars which they have been almost constantly carrying on, the strictness with which Marriages within a certain degree of consanguinity were forbidden except by dispensation, the obliging Strangers inclined to engage in that state, previously to prove their not being married before, and the prohibition of intermarriages between protestants and Roman Catholics were so many bars to the propagation of the Species, these difficulties are now in a good measure removed; the men are an active, strong, and healthy race, the Women are extremely prolifick and in all human probability the next twenty Years will produce a vast increase of People.

(*a*) N° 6, p. 81.

9th

Trade

The French bent their whole attention in this part of the World to the Fur Trade, they never enter'd heartily or with any spirit into the fisheries; most of what was done in this way was by adventurers from the ports of France; some Fish indeed Lumber and provisions were exported to the French islands. Had this trade been opened and agriculture promoted here with any degree of warmth, this branch of Commerce must have become both valuable and extensive but it was monopolized into the hands of a few, by the connivance and management of the Chiefs, the sole view of these being to enrich themselves by every means. The interest of the State could not fail to be sacrificed upon all occasions.

By the best accounts we can procure, the value of Furs exported in the Year 1754 and 1755 taken from the Duties paid thereon stood thus

					lb.	s	d
£64,495	4	7½	.....(*b*)	in 1754.....	1,547,885	11	0
52,735	8	4	.....(*c*)	in 1755.....	1,265,650	0	0

But the most intelligent Traders here estimate the exportation of this one article to have amounted one Year with another to near £140,000 Sterling p[r] annum.

The exportation of these two Years apparently falls very short of this estimation, but it is probable a considerable quantity was run, for the value of imports amounted

£216,769	4	9½	.....(*d*)	in 1754 to.....	5,202,461	15	0
75,560	8	9½	...The Exports of the same Year to..		1.813,450	11	0
£141,208	16	0	Ballance against the Colony would consequently appear.....		3,389,011	4	0

which carries with it no degree of probability but a strong presumption, that in this as indeed in every other branch the publick was ill served; such of their custom house books as have come into my hands, are so confused and irregular, that even the late M[r] Farrant sent by the Lords of the Treasury to enquire into the commercial state of this Country tho' sensible and skill'd in transactions of the like nature, could collect little information from them.

The French East India Company had the sole privilege of exporting Beaver, for this purpose the Company had an agent at each Government as Director and a Comptroller, a stated price was paid for it (*a*) four Livres a pound for the green or winter Beaver and one livre ten sols for the Parchement or summer one. The Companies officers gave their receipt for the quantities brought into their Storehouses these became current in the

(*b*) No. 7, shewing the species of Fur and Quebec price; (*c*) N° 7: D° p. 81.
(*d*) N° 8. Imports and Exports of 1754, p. 81.
(*a*) The Company deducted 5 p[r] Cent on the above price from the Seller.

Colony as cash, and in October the Agents drew Bills of Exchange on the Company for the amount of receipts brought into their Office which were ever held in more esteem than those drawn on the Royal Treasury.

The provinces of New York and Philadelphia now share with Canada a great part of the Fur Trade formerly in the hands of the French, but that proportion of it, which the Quebec government enjoy'd must remain here unalterably.

The foregoing is an attempt to sketch the trade of Canada, while subject to French Government, but under the full enjoyment of His Majesty's mild and gentle administration, its commerce must flourish to a far greater extent.

1st A Most immense and extensive Cod Fishery can be established in the River and Gulph of St Laurence, and may in time prove an inexhaustible source of wealth and power to Great Britain; Settlements may be formed in the neighbourhood of the best fishing places to which the industrious and intelligent in that branch may be invited and encouraged to repair; a rich tract of country on the South side of the Gulph will in consequence be settled and improved, a Port or Ports established and furnished with every material requisite to repair Ships, that have suffer'd by stress of weather or the difficulties attending navigation in such narrow seas, a point much wanted which will lessen the risks, and considerably increase the profits of the Commerce of this Colony.

It is further to be observed that the Fish caught upon these coasts and in the bays, far exceed the bank Cod and fetch an advanced price in foreign markets; The fishermen being on the spot will commence fishing the very instant the season permits and will continue to the very last of it whereby at least two Months will be gained to the trade, which are just now a heavy expence to it, without producing the least profit to it.

2d Next to the Cod in importance is the Whale fishery which can be carried on to the greatest advantage in the River St Laurence with less risk and expence than in any other seas, where the animals resort; Under this head may be placed the seal and sea-Cow fisheries of which there is a prodigious abundance, and an immense (sic) of oil and Whale-bone may be annually exported to Great Britain.

3d..There are several small rivers on the Coast of Labrador abounding with vast quantities of salmon; this if followed with spirit and industry, might very soon become a considerable object to the British Trader.

4th..His Majesty's Yards may by the best accounts be supplied with masts from Chamblie, at a much cheaper and easier rate than from New England. By the latter a tedious Land carriage of several miles and the immense falls of a most rapid river over which they must be rafted and where many are lost must greatly enhance the value of this useful and necessary branch of Naval Stores; whereas by the former with little or no risk at a proper season there is an easy water carriage for them all the way to Quebec, the port for shipping them to Europe.

5th . . Tho' as has been before observed, this province must now share the Fur Trade, which she formerly possessed under the French Government, with the neighbouring Colonies, Yet that which was carried on with the different nations inhabiting the northern Coast of Canada, must still remain with her; she may likewise hereafter regain a great part of that with the upper Country, on account of the more easy conveyance.

It is likewise probable that this very branch may be much farther extended, than ever it was under the French, by reason of the superior diligence and application of the British Traders.

It must be allowed the French were laudable in restraining the vent of Spiritous Liquors to the Savages beyond a certain quantity: by this means many broils were avoided, for they are fond to excess of everything strong and are all mad in their intoxication.

6th . . Raising hemp and flax for which the lands are in many places extremely proper must be an object of the most serious consideration, And I must repeat here, how useful this must prove to the end of promoting agriculture, of employing the Women and Children during the tedious winter months, and of procuring in a short time a vast exportation of that useful commodity for which the returns will be made in British Manufactures.

7th . . As the Country abounds every where with oak, Ash, Hickory, Walnut, Birch, Beech, Maple and other hard woods, which by experience are known to Yield the most Salts, the article of Pot-ash so much demanded in our Manufactures, may be easily produced and soon become an object of consequence; The essais for this purpose which have been made in our other Colonies and have miscarried, ought not to discourage an attempt in this. The high price of Labor; the Woods being in many parts remote from Water carriage, and the greater encouragement for growing and exporting provisions to the West Indies, have been so many obstacles to the making of Pot-ash in our Colonies, whereas provisions here must be very cheap in a few Years, for the navigation being closed six months out of the twelve this Country can never vie with our Southern Provinces in the West India trade; besides the country being settled close to the River side, the conveyance of the Commodity to the Port where it is to be shipped, will be both cheap and easy it will likewise be a means to employ the men all Winter in the business of Felling and drawing of Wood which time they chiefly dedicate to idleness and smoking.

10th

CHARACTER OF THE PEOPLE

The Canadians may be ranked under four different classes

1st The Gentry or what they call Nobility

2d The Clergy

3d The Merchants or trading part

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4th The Peasantry or what is here stilled, Habitant.

1st The Gentry. These are descended from the Military and Civil officers, who have settled in the Country at different times and were usually provided for in the Colony Troops; These consisted formerly of 28 afterwards 30 and had been lately augmented to 40 Companys. They are in general poor except such as have had commands in distant posts where they usually made a fortune in three or four Years. The Croix de St Louis quite completed their happiness. They are extremely vain and have an utter contempt for the trading part of the Colony, tho' they made no scruple to engage in it, pretty deeply too, whenever a convenient opportunity served; They were great Tyrants to their Vassals who seldom met with redress, let their grievances be ever so just.

This class will not relish the British Government from which they can neither expect the same employments or the same douceurs, they enjoyed under the French.

2d The Clergy. Most of the dignified among them are French, the rest Canadians, and are in general of the lower class of People, the former no doubt will have great difficulty to reconcile themselves to us, but must drop off by degrees. Few of the latter are very clever, however the Ecclesiastical state was once composed entirely of natives, they would soon become easy and satisfied, their influence over the people was and is still very great, but tho' we have been so short a time in the Country, a difference is to be perceived, they do not submit so tamely to the Yoke, and under sanction of the capitulation they every day take an opportunity to dispute the tythes with their Curés.

These were moved from their respective parishes at the Bishops pleasure, who thereby always kept them in awe, it may not be perhaps improper to adopt the same Method, in case His Majesty should think right, for the sake of keeping them in proper subjection, to nominate them himself or by those who act under his authority.

It is not improbable that the Jesuites warned by their late disgraces in the dominions of these Potentates who seemed to favor them the most, and apprehending the like or worse treatment from those they stiled Heretics will chuse to dispose of their Estates and retire, as they may possibly find some difficulties to get purchasers the Government might buy their Lands at an easy rate and dispose of the same to many good purposes.

3d The Traders of this Colony under the French were either dealers in gross or retailers, the former were mostly French and the latter in general natives of this Country all of whom are deeply concerned in the letters of Exchange many are already gone to solicit payment and few of those who have any fund of any consequence in France will remain here.

4th . . . . The 4th Order is that of the Peasantry, these are a strong healthy race, plain in their dress, virtuous in their morals and temperate in their living: They are in general extremely ignorant, for the former government would never suffer a printing press in the Country, few can read or write,

and all receive implicitly for truth the many arrant falsehoods and atrocious lies, industriously handed among them by those who were in power.

They took particular pains to persuade them, the English were worse than brutes, and that if they prevailed, the Canadians would be ruled with a rod of Iron, and be exposed to every outrage, this most certainly did not a little contribute, to make them so obstinate in their defence, However ever since the Conquest, I can with the greatest truth assert, that the Troops have lived with the Inhabitants in a harmony unexampled even at home, I must here, in justice to those under my command in this Government, observe to Your Lordship, that in the Winter which immediately followed the reduction of this Province, when from the Calamities of War, and a bad harvest, the inhabitants of these lower parts were exposed to all the horrors of a famine, the Officers of every rank, even in the lowest generously contributed towards alleviating the distresses of the unfortunate Canadians by a large subscription, the British Merchants and Traders readily and cheerfully assisted in this good work, even the poor Soldiers threw in their mite, and gave a days provisions, or a days pay in the month, towards the fund, by this means a quantity of provisions was purchased and distributed with great care and assiduity to numbers of poor Families, who, without this charitable support, must have inevitably perished; such an instance of uncommon generosity towards the conquered did the highest honor to their conquerors and convinced these poor deluded people, how grosly they had been imposed upon; the daily instances of lenity, the impartial justice which has been administer'd, so far beyond what they had formerly experienced, have so alter'd their opinion with regard to us, I may safely venture to affirm for this most useful Order of the state, that far from having the least design to emigrate from their present habitations into any other of the French Colonies, their greatest dread is lest they should meet with the fate of the Accadians and be torn from their native Country.

Convinced that this is not to be their case and that the free exercise of their religion will be continued to them once Canada is irrecoverably ceded by a Peace the people will soon become faithful and good subjects to His Majesty, and the Country they inhabit within a short time prove a rich and most useful Colony to Great Britain.

Before this report is closed it will not be improper to observe to Your Lordship how impossible it is to ascertain exactly what part of North America, the French stiled Canada, no Chart or Map whatever having fallen into our hands or public record of any kind to shew what they understood by it.

However it is to be hoped, the limits on this side at least will need no canvassing nor admit of any dispute

Should I be able to procure farther lights relative either to those limits or the several other matters contained in this Report worthy of notice, You may be assured they shall be forthwith transmitted to Your Lordships,

happy if my labors can any way conduce to His Majesty's Service, or the good of my Country.

I have the Honor to be with great truth and regard
My Lord,—Your Lordships, most obedient
and most faithful humble Servant
JA : MURRAY

Quebec 6th June
1762.

Papers refer'd to in this Report[1]

N° 1 Kings Arret of the 15th March 1732 directing the letting of the Lands granted already within a certain time limitted on pain of forfeiture.
2 Tariff of Duties on Imports and Exports
3 List of Revenue Officers in Canada the Year 1758 with their Salaries.
4 Ordonnance current for 1lb : 10s or about 7½ Sterling.
5 Extract of a Letter to Governor Murray giving some account of the India trade in the Upper Country.
6 Number of souls in the Government of Quebec 1761.
7th Quantity of Furs exported in 1754 with the Quebec prices of the several species.
8 Imports and Exports in 1754
Seven Plans
Project for Building a Citadel.

COL. BURTON'S REPORT OF THE STATE OF THE GOVERNMENT OF THREE RIVERS.[2]

The Government of Trois Rivieres lyes upon the River St Lawrence, between the two Governments of Quebec, and Montreal.

Length

It Extends about Eighty Miles along the Shore of the River, which in its Course Divides it into two Departments, the North beginning a little above a place Called Les Grondines, which Divides it from the Government of Quebec, & goes up as far as the River Chicot, where it Ends; and the South Department beginning between St Jean, & St Pierre les Bequets, Ending with the upper part of Yamasca Bay.

Breadth

It Runs to the Southward as far as Nova Scotia, Newhampshire, & the Massachusetts, to which Countries Several Rivers of this Government

[1] The papers here mentioned do not accompany the Report as preserved in the Public Record Office.
[2] See note p. 47.

Afford a short passage, especially those of Nicolette, & Biencour, which run up within five or six miles of the source of Kennebeck River, and that of S^{t} François, navigable for Canoes to the Portage, which is six miles over, You then Enter a branch of the Connecticut River. To the Northward, this Government stretches thro' an Immense Tract of Country, as far as Hudson's Bay; and the same Nations that trade with the Company settled there, used formerly to bring their Furs into this Government thro' the Rivers of S^{t} Maurice & Batiscan.

Notwithstanding the Factory settled at Hudson's Bay, and the Posts at Tadousac, & Chicoutimi up the Saguenay, the easy Navigation of those Rivers especially that of Batiscan, Induces several of the Indians, Called *Têtes de Boulle* to Come down even now to this Government every spring.

State of the Country

All the Lands in this Government, as well as thro' all Canada, are Divided into Seigneuries, & mannors, granted by the Crown of France to different people, upon certain conditions, such as settling them within a limitted time, paying Hommage at Every Change of Seigneur, and part of the purchase in case of Sale, as also Reserving to the Crown the right of cutting timber for building of Ships, or Erecting Fortifications. The Seigneurs are likewise obliged by the said Grants to Report to the Governor Whatever mines may be Discovered in their respective Seigneuries, as all mines found in Canada are the King's Property. In general these Seigneuries run Four or six Miles in front; and six or nine deep from the Banks of the River S^{t} Lawrence so that many Lands are yet in the hands of the Crown, on the back of those that are Granted.

The Seigneurs had by their Original Grants the power of naming Judges & Administring Justice, even in Capital Cases, thro' their Districts; but Custom has Abolished those too great privileges, tho' the Powers for it are yet extant, in the hands of the Seigneurs: However all suits are now Carried before the proper Tribunals named & established by the Crown.

The Habitations are for the most part settled along the banks of the River S^{t} Lawrence, or up the Rivers & Rivulets that fall into it, and are seldom Carried up higher than five or six Miles. There are in this Government Eighteen Parishes, viz^{t}

North Shore
S^{t} Anne,
S^{t} Marie,
Riv^{re} Batiscan
Côte Batiscan
Champlain
Cape Magdalaine
Trois Rivieres
Point du Lac

South Shore—
S^{t} Pierre Bequets
Gentilly
Biencour
Nicolette
Bay S^{t} Antoine
S^{t} Francois
Yamasca

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Machiche,
Riv^r du Loup.
Maskinonge

These seven last Parishes, viz^t. Du Lac, Machiche Riv^re du Loup, and Maskinongé on the North Shore; Nicolette; Bay S^t Antoine, S^t François, & Yamasca on the South, are settled round Lake S^t Pierre, which is formed by the Spreading of the Water of the River S^t Lawrence, the Bottom muddy, the Water Shallow, one & Twenty miles in Length, and about ten in Breadth; the Channel is not above thirteen feet deep, but the bottom of so soft a mud, that a Vessell drawing Fourteen feet may plough through it, it Abounds with many sorts of Excellent Fish.

The Town of Trois Rivieres which is the Capital lays in the Centre of this Government, as also at an Equal Distance from Quebec, & Montreal; it is built upon the North Shore of the River S^t Lawrence, and Consists of about One Hundred Houses a Parochial church, a Convent of Ursuline Nuns, & Another of Recollet Priests.

State of the Fortifications

There was no other Fortification in this Town, than the Governors House, which is Stockaded round, and Commands by its Situation the Town & Country about it, Untill the siege of Quebec in *1759*. When they Erected Batteries in several Parts of the Town, made an Irregular Intrenchment on that side of it which looks towards the River S^t Lawrence; and threw up Lines flanked with two Redoubts, in the Common that lyes to the Westward towards Montreal.

State of Defence

This place is at present in no state of Defence, the French having Neglected from their Imaginary Security to pay the least Attention to Fortifying it, & suffered the Inhabitants to build their Houses upon the low Ground near the Common, which is liable to be overflowed Every Spring, rather than take advantage of the high Situation upon which part of the Town is built, whereas they might have secured to themselves at a very little Expence, Safe & convenient Magazines for Stores & Provisions, which the equal Distance from Quebec & Montreal, & the proximity to the Iron Mines & Forges that lay behind this Town seem to have pointed out.

Products of the Soil

The Laziness of the people, & the alluring & momentary Advantages they reaped from their Traffick with the Indians in the Upper Countrys, & the Counterband Trade they Carried on with the English Colonies, have hitherto prevented the progress of Husbandry, so that out of very near One Hundred Thousand of Acres of Land, granted by the Seigneurs of the

different Parishes, there are not sixteen Thousand under Cultivation, whereof hardly Five Thousand have been Employed for sowing of Wheat, which for many years past have not been sufficient for supplying the Inhabitants of this Government with Bread; and has obliged them to procure Yearly from the Governments of Montreal, or Quebec, several Thousand Bushells of Wheat, in Exchange for Fish, Oats, & Tobacco. The Soil tho' light & sandy in some Parishes produces in general, good Crops of Wheat, Oats, Pease, & all sorts of Vegetables. Tho' the Lands are not near so well Cultivated as they might be, Fruit trees such as Apples, Pears, & Plumbs, have been often planted in this Government, but don't thrive—The Inhabitants attribute it to a Stratum of marle that lyes within a foot, or fourteen inches from the surface, which Occasions the Tree to Decay, as soon as the Root touches it. In the sandy Parts of this Government, musk & water melons are produced in great abundance, good of their kind, and with very little trouble. The difficulty for some years past for procuring Tobacco, from the English Colonies, has encouraged the Inhabitants of this Government to Cultivate it, by which means many of their Corn Fields have been turned to that use, and those Lands greatly Impoverished.

State of the Revenue of this Government

This Government has hitherto brought nothing into the French King's Coffers. There was formerly a Regular Office for buying of Beaver Settled at Trois Rivieres, in the same manner, and with the same priviledges & Restrictions as those of Montreal, and Quebec. But the Advantage which the Inhabitants found in Carrying their Packs to either of the above mentioned Towns, where they could supply themselves with what Goods they wanted, encouraged them to Venture, disobeying the orders given to the Contrary, and of Course rendered the produce of that office, so trifling that after some Years it was joined to that of Quebec.

The only Branch of the Revenue remaining in this Government, is the Kings Dues & Rights, Amounting to a twelfth part of the Price in Case of Sale or Exchange of such Lands, or Houses, as lye upon his Demesnes; as also a fifth Part of the Price of Sale or Exchange of all Seigneuries & Mannors, as being Lord Paramount of all the Lands & Estates in Canada, of which Dues a third part was always remitted, thro' the King's Pleasure. The produce of which Branch has likewise failed from the want of a Commissary in this Government to Inspect, and look into it.—N.B. There was only One Person called Receiver-General of the King's Demesnes in this Colony, who Resided at Quebec, from the distance, & the want of a Deputy in this Government, the Inhabitants had all the opportunitys they could wish, to sink the King's Dues.

Former Management Rejected all but one Article

Indeed no part of the Former Management seems worthy of Adoption, but that of the King's Rights and Privileges, as every other Branch of the

Ancient Administration, has been the most powerful means of stopping the progress of this Colony.

Expences of this Government

The Expences of this Government cannot be Easily Calculated, as the most material Branch depended upon the probity of the Governors, Intendant, and Keeper of the King's Stores, as also the variable Circumstances of more or less Indians being Employed or visiting this Government; for which purpose there was at Trois Rivieres a Considerable Magazine of Provisions, & Dry Goods of all sorts, Wholly Intended to Supply the wants of Indians living in this Government marching thro' it, or Coming to Trade; the Expence of which Amounted some Years to two or three Hundred Thousands of French Livres, others less. Another branch, but of a Clearer nature was the Sallaries of the People upon the Staff in this Governm^{t} & are as follows.

	French Livres.
To a Governor	6,000 :—
Lieut Governor	2,000:—
Town Major	1,500:—
Town Adjutant	1,100:—
And in the Civil Branch.	
To a Lieut. General or Chief Judge	600:—
King's Attorney	300:—
a Taylor	600:—

Lastly the King was pleased to Grant every Year, to the two Religious Houses of Ursulines & Recollets in the Town of Trois Rivieres, a Gratification not exceeding Twelve Hundred Livres for both Houses; and His Majesty was likewise at the Expence of paying for the Board of such Bastard Children, as were Declared to, and Registered by the King's Attorney, All which Expences were paid Half Yearly by the Treasury at Quebec.

Advantages derived to the French

To all Appearances the French Derived no advantages from this Government, and utterly neglected, or abused such as they might have Improved, or profited by.

The most Material which they Abused was that which might arise from the Iron mines & Forges settled about seven Miles behind the Town of Trois Rivieres, up the River S^{t} Maurice.

This Establishment Consists of one Furnace and two Forges built upon a little Rivulet, whose water never freeses; it Discharges itself into the River S^{t} Maurice, from whence the Iron may be easily Conveyed to any Magazine at Trois Rivieres in Batteaux, and from thence in Vessells to Montreal or Quebec. There are besides a large Stone House for the Managers & other wood Buildings for the People Employed at the Works.

The Mine that has hitherto supplied the forges lays very near the surface of the Earth, in a low marshy Ground seven or Eight miles from them, There has hitherto been no Road made to it, as they used to fetch the Ore in Sledges during the Winter Season; but a good One may be easily made.

The Iron made from this Ore, is so Excellent in its Quality, that in a late tryal made by order of His Excellency General Amherst, it was found greatly superior to any made in America, and even Exceeds that Imported from Sweden.

This Mine was opened in the Year 1732, and Granted in 1736 to a Company, whom the King Assisted with a Loan of about *3000* pounds sterling. Theyo bliged themselves to Afford what Iron the King might have occasion for, at two Dollars and a half the hundred weight; Whereas this Iron in Barrs never sold for less than five or Six Dollars in this Colony Their own Extravagance; and the low price of Iron Stipulated for between them and the King, was the reason some Years after of their giving up the Grant, and Declaring themselves unable to Repay the Loan they had borrowed from His Majesty.

In 1742 the King took back the Grant, and kept the Forges in his own hands, which from that time were put entirely under the Direction of the Intendant.

The Works were then Carried on in a Larger scale, the mine produced ore in great plenty; and in the Year *1746* the single Furnace built there returned one Million Eleven Hundred Thousands five Hundred & Twenty three pounds weight of Cast Iron which produced Five Hundred Thousand Weight of pure Iron, besides a large Quantity of Stoves & Pots, Notwithstanding All This, the great number of useless People employed there, such as a Director, a Comptroller, a Contractor for Provisions & forage, Several Overseers in Chief, a Chaplain &ca, at large sallaries; the little attention paid to the Improvement of the Lands to procure Oats & Hay. Which was always bought at a great Distance, and at a Considerable expence, & besides the Fraud of the Intendants, by whom all the acco^{ts} of that Branch were settled; rendered that Establishment rather burthensome than profitable to the Crown. All the Buildings, Machinary, & Tools are now in a most Ruinous Condition, and require a thorough Repair. But the natural Advantages still Remain, viz^{t} the mine itself, to which may be added another yet untouched, laying about three miles from the Forges, on the other side of the River S^{t} Maurice, the Woods about that Establishment, a Quarry of Limestone, absolutely necessary for the Melting of the Ore, Eight miles up the River S^{t} Maurice; and lastly the Rivulet upon which two more Forges & a Furnace may be easily built without any Incumbrance to Each other; All which Advantages may certainly be greatly Improved to the Advantage of the Crown, by Supplying His Majesty's Navy with proper Iron for Ship Building.

Tho' this Government is Extremely well timbered, with proper Wood for building of Ships, & for Masts, yet the greater Facility of supplying

the Navy with those Materials from Lake Champlain makes that Article less valuable. The Lands have been tryed & found Equal to produce plentifull Crops of Hemp & Flax—Rope walks might be Established, in many Parishes of this Government, and an office at Trois Rivieres for buying of Hemp or Ropes.

The Woods Abound with Pine Trees that would Afford great Plenty of Pitch, and all sorts of Gums; as also with Maple & Plane Trees, from which the Inhabitants, at the breaking up of the Frost, draw a great quantity of Syrup, and by boiling make a Coarse kind of Sugar for their own Use. Much more of this kind of Sugar might be made, should it be thought proper to Encourage it.

STATE OF POPULATION

The same Reasons mentioned above, which have hitherto prevented the progress of Husbandry, have also stoped the Encrease of people. The greatest part of the young men, allured by the Debauched and Rambling Life, which always Attend the Indian Trade in the Upper Countrys, never thought of settling at home, 'till they were almost wore out with Diseases, or premature old age.

The Number of Regular Troops in this Government, will be seen by Annexed Return N° 1.

The Number of Canadian Inhabitants with a Distinct Column of the Number of those that are able to Bear Arms, by the Return N° 2.

The Number of Acres granted by Seigneurs, the property of the Lands, with the Number & Species of Cattle upon them, by the Return N° 3.

The Number of Christenings, Marriages, & Burials, since the latter part of the Year 1760, to April 1762, by the Return N° 4.

DISPOSITION OF THE INHABITANTS

The Inhabitants & Chiefly the Peasantry seem very happy in the Change of their Masters. They are protected in the free Exercise of their Religion; they begin to feel that they are no longer Slaves, but that they do Enjoy the Full Benefit of that Indulgent & Benign Government which Constitute the peculiar felicity of all, who are Subjects to the British Empire.

None have hitherto, to my knowledge emigrated from this Government; And at present there seems no grounds to fear the emigration of any of them. The Gentry are the only People, who may perhaps Intend to Remove, if the Country should Remain Under the Government of Great Britain. In general, they Chuse not to Speak upon the Subject, as they still flatter themselves with tacit & Distant hopes of the Country being Returned to its former Masters.

R. BURTON.

N° 1.

A RETURN of the British Forces Quartered in the Government of Trois Rivieres April the 5th 1762.

Place where Quartered	Regiments	Companies	Officers Present					Effective Rank & File
			Commission'd			Non Commission'd		
			Captains	Lieutenants	Ensigns	Serjeants	Drummers	
Trois Rivieres....	44th	Captain Hervey	.....	2	1	2	1	73
		Captain Treby.	1	2	1	2	2	69
Masquinonge and Machiche.....	46th	Captain Legge.	1	1	1	2	1	60
St Anne & Champlain.....	46th	Captain Arnot.	1	1	1	3	2	59
St François.....	46th	Capt. Johnston	.....	1	1	3	2	59
		Total.....	3	7	5	12	8	320

44th Regiment—Captain William Hervey Major of Brigade; one Serjeant recommended; one Serjt one Drummer on Party.

46. Regiment—Captain Alexander Johnstone at Quebec, with leave of General Amherst, one Serjeant on Party.

R. BURTON
Colonel—

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N° 2.

RETURN of the Canadian Inhabitants settled in the Town & Government of Trois Rivieres in April 1762—

Names of Parishes	House Keepers	Married women & widows	Males unmarried & Children	Females unmarried & Children	Male Servants	Female Servants	Men able to Bear Arms	Total of the People.
Les Trois Rivieres	114	130	148	168	59	53	136	672
Point du Lac.....	46	44	66	73	2	1	53	232
Machiche.....	106	110	176	164	9	2	153	567
Riviere du Loup.	104	97	152	141	22	4	88	500
Masquinongé.....	65	62	112	94	2	3	62	338
Yamasca.....	110	117	161	153	20	12	149	573
S[t] François.....	57	52	90	111	16	14	70	340
Baye S[t] Antoine..	57	51	94	67	5	5	67	279
Nicolette.....	95	84	122	123	12	10	111	446
Bécancour.....	63	60	65	84	1	6	66	279
Jentilly.....	27	30	44	44	1	2	35	148
S[t] Pierre.....	33	33	70	69	14	0	53	219
S[te] Anne.....	58	44	110	85	17	12	60	326
S[te] Marie.....	58	49	80	85	3	8	64	283
Riviere Batiscant.	98	95	153	154	6	7	65	513
Batiscant.....	35	35	60	79	6	8	54	223
Champlain.....	48	49	72	71	30	18	65	288
Cape Magdaleine.	32	29	45	35	15	18	40	174
Forges S[t] Maurice	11	11	18	28	3	1	0	72
Total.....	1217	1182	1838	1948	243	184	1391	6.472

N.B. There are besides in this Government Three Indian Villages, one at Bécancour; Another at S[t] François both of Abenakis; and the last at Pointe du Lac of Algonquins, Containing about 500 Men Women & Children—Besides Forty Five Families of Acadians, amounting to very near Two Hundred people hutted in different places of this Government—.

From the Registers of the Secretary's Office at Trois Rivieres, the 5[th] of April 1762.

J. BRUYERE. Sec[ry]

N° 3.

RETURN of the Lands granted by the Seigneurs, those under Cultivation, their Natural property, & the Number of Cattle upon them, throughout the Town & Government of Trois Rivieres, in April 1762—

Names of Parishes	Acres of Land Granted	Acres under Cultivation	Property of the same	Horses	Horned Cattle	Sheep.	
La Trois Rivieres	5830	1339	All sorts of grains	80	210	50	
Pointe du Lac	2780	280	Wheat & Oats	20	50	12	
Machiche	9800	1800	Wheat	90	250	70	
Riviere du Loup	6200	1200	Wgeat & Oats	90	160	20	
Maskinongé	4250	550	Wheat Oats & Pease	50	150	25	
Yamaska	9300	1300	All sorts	120	380	150	
St François	2600	1100	Wheat & Indian Corn	60	180	40	N.B. There is in this Government great plenty of Hogs, Poultry, Wild Fowl, especially wood Pidgeons: Abundance of Fish in Lake St Pierre And such an amazing quantity of small fish Crouding up the River St Maurice about Christmas, that it is sufficient to maintain several poor families, during great part of the Winter They even feed their Hogs with them.
Baye St Antoine	6000	1000	Wheat & Pease	50	200	80	
Nicolette	9200	1200	All sorts	60	210	80	
Bécancour	3400	400	All sorts	40	200	20	
Jentilly	5800	200	All sorts	24	60	7	
St Pierre	3900	400	Wheat & Oats	35	120	30	
Ste Anne	3850	850	Wheat & Oats	64	110	75	
Ste Marie	4637	1100	Wheat & Oats	66	142	133	
Riviere Batiscant	3500	500	Wheat Oats & Tobacco	107	240	25	
Batiscant	4033	1482	Wheat Tobacco	46	127	38	
Champlain	5660	1400	Wheat Oats & Tobacco	80	175	10	
Cap Magdaleine	2100	600	Oats & Tobacco	41	142	19	
	92840	16701		1123	3106	884	

From the Registers of the Secretary's Office at Trois Rivieres April 5th 1762

J. BRUYERE.
Secry

SESSIONAL PAPER No. 18

N° 4.

RETURN of the Number of Christenings, Marriages, & Burials in the Government of Trois Rivieres from September 1760, to April 1762.

Names of Parishes	Christenings		Marriages	Burials	
	Male	Female		Male	Female
Les Trois Rivieres	38	36	19	27	34
Pointe du Lac	8	10	4	7	5
Machiche	35	30	12	31	13
Riviere du Loup	19	23	18	7	5
Masquinongé	11	13	11	7	3
Yamasca	24	32	26	11	20
S[t] François	21	20	7	18	17
Bay S[t] Antoine	13	16	14	7	8
Nicollette	16	19	19	5	7
Bécancour	18	14	21	2	4
S[t] Pierre	18	8	8	3	5
S[te] Anne	38	33	19	25	21
Batiscant et Riviere Batiscant	38	32	21	20	12
Champlain et Jentilly	16	18	12	8	14
Cap Magdaleine	8	3	4	4	3
Total	321	307	215	182	171

Thus the Number of Births in this Government have during the above mentioned time, Exceeded that of Burials by 275—

From the Registers of the Secretary's Office at Trois Rivieres—April the 6[th] 1762—

J. BRUYERE. Sec[ry]

Endorsed:–Colonel Burton
Report
of the State of the Government of Trois
Rivieres in Canada
April. 1762:
in S[r] J. Amherst's of June 15, 1762.
No 20.

GENERAL GAGE'S REPORT OF THE STATE OF THE GOVERNMENT OF MONTREAL

MONTREAL, March 20[th], 1762.

SIR, I have already Acknowledged the Receipt of a Copy of the Earl of Egremont's Letter to you of the 12[th] Dec[r], and I take this opportunity to return you my Answers thereto, Assuring you, that I have lost no Time in collecting the best Information of Every thing Contained in that Letter that I could possibly procure.

I feel the highest Satisfaction, that I am able to inform you, That during my Command in this Government, I have made it my Constant Care

and Attention, that the Canadians should be treated agreeable to His Majesty's kind & humane Intentions. No Invasion on their Propertys, or Insult on their Persons have gone unpunished, All Reproaches on their Subjection by the Fate of Arms, Revilings on their Customs or Country, and all Reflexions on their Religion have been discountenanced and forbid.

No Distinction has been made betwixt the Briton & Canadian but equaly regarded as Subjects of the same Prince. The Soldiers live peaceably with the Inhabitants, & they reciprocaly acquire an affection for each other. I have notwithstanding, made known His Majesty's Pleasure on these Particulars to the Several Commanders of Corps, that every Individual may be acquainted therewith, which will, no Doubt, Add the greatest Weight to the Orders & Directions which have been already given. And you may be Assured that Troops who have ever shewn the most Ardent desires, to Advance the Interest of their Sovereign, and paid the most exact Obedience to his Commands, will vye with each other in Brotherly Love and Affection to the Canadians, over whom, His Majesty has extended his Royal Favor, & Protection. The Indians have been treated, on the Same principles of Humanity, They have had immediate Justice for all their Wrongs, and no Tricks or Artifices have hitherto been attempted, to defraud Them in their Trade.

I send herewith a Return, (N° 1) of the present State of the Troops & Artillery in this Government, As to the Fortifications, except Fort W^m^ Augustus, which may at present be in a good state of Defence, the rest having only been calculated to repel sudden Invasions of Indians, are of Course, of small consideration. The City of Montreal is surrounded by a high Wall ramparted and flanked; the Parapet about Three feet thick a natural Defence from the River S^t^ Lawrence on one side, on the other, a Ditch mostly faced. Upon a Height within the City, is a small square work of wood, compleated since the Capitulation, provided with a few pieces of Artillery, & capable of containing Seventy or Eighty Men. The Fort of Chamblé, is an Antient Stone Castle, flanked with Tours, in which are Port-Holes, for small pieces of Ordnance, no Ditch or Outwork.

You will also receive herewith, a General Return, (N° 2), of the State of this Government, for the year 1761, Comprehending the Number of its Inhabitants, Cattle &ca. The State of Population, Quantity of Acres Cultivated and Quantity of Grain sown, for the particulars of all which, I referr you to the Return.

The Soil produces all sorts of Summer grain, in some parts of its Government, the Wheat is sown in Autumn. Every kind of pulse & other vegetables; to which I may add, some Fruits, viz^t^ Apples Pears Plumbs Melons, &ca. Cyder is made here, but as yet in Small quantitys, In general, every Fruit tree, hardy enough to withstand the severity of the Winter, will produce in the summer, which affords sufficient Heat, to bring most kinds of Fruit to Maturity.

The Profits, which the French King drew from the Government of Montreal, unconnected with the other two Governments, of Trois Rivieres & Quebec, proceeded from *the sale of certain Trading Posts* in the Indian Country, *From the Money paid for permits*, to trade at others, which were called Free Posts, *from the King's own Trade*, at those called the King's Posts. And *from the Droit de Quint, & Droit d'Échange.* In Return (N° 3) you will find these several posts particularly ascertained, with the annual Profits which might have accrued from the two first. It is impossible to ascertain, what were the Profits & Losses upon the French King's own Trade; No Doubt, that Trade well managed, would have produced considerable gains; but from the Number of Commissaries & Factors employed, who have made very large Fortunes for themselves; and the immense profusion of Presents, made to the Indians; I must conclude, His Majesty gained very little from the Commerce.

The Lands have all been granted, on Feudal Tenures, from thence; The King's *Droit de Quint, & Droit d'Échange.* The first is a Fifth, of all Monies that shall be received, on the sale of Seigneuries or Lordships. The Latter, a Fifth of the value of all Lordships exchanged, & a Twelfth of the value of all Copyhold Estates, that shall be exchanged. The Right of Exchange however, did not belong to the French King, either in the City or Island of Montreal; It having been granted to the priests of the Seminary of S^{t} Sulpice, who are Temporal Lords of that Island. And enjoy the privilege of the Exchange, as well the City as the rest of the Island. The French King generally remitted a Third of his Dues on these sales & Exchanges, whose Revenues from hence, might amount, Communibus Annis, to about Three Thousand Livres. I have Supported His Majesty's Right to these fines of Alienation remitting the Third, according to old Custom. This Year by an Accident, They have amounted to Nine Thousand Livres.

Immediately after we became Masters of this Country, all Monoplys were abolished, and all Incumbrances upon Trade were removed. The Traders chose their posts, without the obligation of purchasing them, and I can by no means think, The French Management, in giving exclusive grants of trade, at particular posts, for the sake of the sale thereof; or the sale of permits to trade at the free posts, worthy our Imitations. The Indians of course paid dearer for their goods, & the Trade in General, must have been injured by Monoplys. The Traders were alone at the posts they had purchased, where no person in Authority had the Inspection of their Conduct; & committed many abuses, for which the Indians could get no Redress; And it has happened, that the Indians had murdered the Traders & plundered their Effects; by which the French have been drawn into wars at a very great Distance, and at a great Expense. The French also found a very great Inconvenience in this kind of Traffick, from the Loss of men to the Colony.

Nothing was more Common, than for the Servants, whom the Merchants hired to work their Boats, & assist in their Trade, thro' a long

Habit of Indian Manners & Customs, at length to adopt their way of Life, to intermarry with them, & turn Savages. Several Edicts have been published to prevent this but notwithstanding, there are now some Hundreds amongst the distant Indians, who I do not suppose will ever return to their Country. Tho' the Trading Posts were by this means multiplied, and from thence appears to have increased the Trade, in reality, unless in a few Instances, these Monopolizers brought no Addition of Commerce into Canada, as they for the most part traded with Indians, who would otherwise have carried their Furrs to the great Marts of Michillimakinac and Detroit, so that in Effect, they were only Forestallers of the Market. Besides the Inconveniences which I have mentioned, to have attended the sale of Posts & Permits, I conceive this matter to be so liable to abuse, thro' Receivers, Jobbs, & Perquisites, that it would bring but little into His Majesty's Coffers. And that the surest & easiest way to encrease His Majesty's Revenue from the Pelletry will be the laying such Dutys only on its Importation, as shall be thought Advisable.

To remedy the Inconveniencies & abuses, which both the English & French have suffered, thro' the management of the Indian Trade; I know no better method, than to assign a certain Number of Posts in the distant Country, to which only, the Traders should be allowed to traffick, and to abolish all the little posts.

And I am of opinion the Five Posts hereafter mentioned, will enable His Majesty's subjects to trade with almost every Nation of Indians, that has yet been discovered, and that have been accustomed to Trade with the French, viz[t] *Kanamistigoua* on Lake Huron, *Michillimakinac Baye des Puants* in Lake Michigan. *The Detroit, and Houilliatanon* on the Ouabache.

A small Detachment of Troops with proper Officers should be in each of these Posts, And the officers Authorized, either solely by themselves, or assisted by such other persons as may be found in the posts, to exercise a Judicial power—The Vast distance some of the above Posts are from the Inhabited Country, would alone make this circumstance highly necessary, and the advantages that would arise from it, are very apparent The Insolence of the Indians will be checked, by the Presence of the Troops. The Tricks & Artifices of the Traders to defraud the Indians will meet with Instant Punishment which cannot fail to make the Indians conceive, the highest Opinion of Our Integrity & His Majesty's good Inclination towards them, and by these means, all Disputes and Quarrells with the Savages will be prevented. I can devise no better plan for Carrying on the Trade in the distant Countrys, than the above; or by which, any Regulation concerning the Trade that shall be made, can ever be observed, and Supported.

Paper (N° 4) contains the particular Dutys upon the Merchandize imported into Canada, and upon the exports of the Pelletry, Also a Computation of all the Revenues the French King enjoyed, Communibus Annis,

from the whole Province of Canada comprehending at an average, Exports & Imports, Sale of Posts, & all Emoluments whatever, which were received in Canada on the King's Account, I referr you likewise to the same paper for the annual expence of Canada to the French, in Time of Peace. You will observe amongst the Exports that the Beaver, which was the exclusive Trade of the India Company, paid no Duty. Nor am I able to send you any good acco^{ts}, whether the French King drew any Profits from the Beaver, or other Pelletry, on its arrival in the Ports of France; or what advantages The Crown of France reaped from the Exclusive Trade of Beaver, granted to the India Company. There are no persons here who can give me any clear Information in those particulars.

The only immediate Importance & advantage the French King derived from Canada was the preventing the Extension of the British Colonys, The Consumption of the Commodities & Manufactures of France, and the Trade of Pelletry. She had no Doubt, views to future Advantages, That this Country might in Time supply her, with Hemp, Cordage, Iron, Masts, & generaly all kinds of Naval Stores.

The people in general seem well enough disposed towards their new Masters. The only Causes of Dislike which I can discover, proceed from the fear of losing their paper Money, and the Difference of Religion, I understand Canada to be on the same Footing in Respect of this money, as all the French Colonys; and if France pays any of them, I don't see how she can avoid paying the Bills of Exchange drawn from Canada, in the same proportion as she pays the rest. It is the Canadians only who would be sufferers by an exception, as Canadian Bills, to a very large amount are in the possession of French Merchants, and the rest may be sent to France, & no body be able to distinguish which is French, or which Canadian Property. The people having enjoyed a free & undisturbed Exercise of their Religion, ever since the Capitulation of the Country; Their fears in that particular are much abated, but there still remains a Jealousy. It is to be hoped, that in time this Jealousy will wear off: and certainly in this, much will depend upon the Clergy, Perhaps Methods may be found hereafter, to Supply the Cures of this Country with Priests well affected. But whilst Canada is stocked as she now is, with Corps of Priests detached from Seminarys in France, on whom they depend, and to whom they pay obedience It is natural to conceive, That neither the Priests, or those they can influence, will ever bear that Love and Affection to a British Government, which His Majesty's Auspicious Reign would otherwise engage from the Canadians, as well as from his other Subjects.

No Persons have left this Government to go to France, except Those, who held Military and Civil Employments under the French King. Nor do I apprehend any Emigration at the Peace being perswaded that the present Inhabitants will remain under the British Dominion. I perceive none preparing to leave the Government, or that seem inclined to do it; unless it is a few Ladys whose Husbands are already in France, and they propose

to leave the Country when Peace is made, if their Husbands should not rather choose to return to Canada.

As I cannot discover that the Limits betwixt Louisiana & Canada were distinctly described, so as to be Publickly known, I can only inform you, what were generally believed here, to have been the Boundaries of Canada & give you my own Opinion, which is drawn from the Trade that has been Constantly carried on, by the Canadians, under the Authority, and permission of their several Governors. From hence I judge, not only the Lakes, which are Indisputable, but the whole Course of the Mississippi from its Heads to it's Junction with the Illinois, to have been comprehended by the French, in the Government of Canada.

The People of Louisiana carry their Trade up the Missouri River, and I can't find that the Traders from that Province, ever went higher up the Mississipi, than the mouth of the Illinois River, on the Contrary, the Traders from Canada, did constantly trade above the Illinois, from their Posts on Lake Michigan, even up to the River S^{t} Croix, and the Falls of S^{t} Anthony, And it was the Trade alone of the Mississipi Indians, which made the Post of the Baye des Puants, so very advantageous. The Illinois River, tho' formerly in the District of Canada, was after some Disputes betwixt the Governors, annexed to Louisiana. A South Easterly Line, drawn from the portage, betwixt the Illinois River and the waters which run into Lake Michigan will bring you to the post of Houilliatanon upon the Ouabaches fourscore Leagues down that River ; Computing from that part, where the Boats are Launched, after crossing the Portage of the Miamis. This was the last Trading Post belonging to Canada on that side, & was certainly the Boundary of Canada on that side. About sixty Leagues below this Post, is the Post of Vincennes, which was served by the Traders of Louisiana, and of Course, was the Boundary of that Province. This is the best information I can procure you concerning the Limits, and what I have described to you, are thought to be the real Boundaries betwixt the two Provinces.

As I have answered the several Particulars of Lord Egremont's Letter, after having made the best Enquiry I shall think myself happy if the Acco^{t} I send you, shall in any Shape contribute to Your transmitting to His Majesty the exact State of his Province of Canada. I am with great Regard & Esteem.

Sir, your most obedient most humble servant,

THO^{s}. GAGE.

His Excellency
S^{r} Jeffery Amherst.
Endorsed: Major General Gage,
20th March, 1762,
in S^{r}. J. Amherst's of May 12th, 1762.
No 38.

SESSIONAL PAPER No. 18

TREATY OF PARIS 1763.[1]

F. O. State Papers.
Treaties

February 10th 1763.—

DEFINITIVE Treaty of Peace and Alliance between Great Britain France and Spain, concluded at Paris, with the Seperate Articles thereunto belonging.

Au Nom de la Très Sainte & Indivisible Trinité, Pere, Fils, & Saint Esprit. Ainsi soit il.

Soit notoire à Tous Ceux, qu'il appartiendra ou peut appartenir, en Maniere quelconque.

Il a plû au Tout Puissant de repandre l'Esprit d'Union & de Concorde sur les Princes, dont les Divisions avoient porté le Trouble dans les quatre Parties du Monde, & de leur inspirer le Dessein de faire succeder les Douceurs de la Paix aux Malheurs d'une longue et sanglante Guerre, qui, après s'être elevée entre L'Angleterre & La France, pendant le Regne du Serenissime & Tres Puissant Prince Georges 2. par la Grace de Dieu Roy de la Grande Bretagne, de glorieuse Memoire, a été continueé sous le Regne du Serenissime & Très Puissant Prince Georges 3. Son Successeur, & s'est communiquée dans ses Progres à l'Espagne & au Portugal; En Consequence, Le Serenissime & Très-Puissant Prince Georges 3., par la Grace de Dieu Roy de la Grande Bretagne, de France, et d'Irlande, Duc de Brunswick & de Lunebourg, Archi-Tresorier & Electeur du Saint Empire Romain; Le Serenissime & Très Puissant Prince, Louis 15. par la Grace de Dieu Roy Très Chretien— Et Le Serenissime & Très Puissant Prince Charles 3. par la Grace de Dieu Roy d'Espagne, & des Indes, après avoir posé les Fondemens de la Paix dans les Preliminaires signés le 3: Novbre dernier à Fontainebleau; Et le Sermc & Très puissant Prince Dom Joseph 1er par la Grace de Dieu Roy de Portugal & des Algarves, après y avoir accedé; Ont resolû de consommer sans Delai ce grand & important Ouvrage; A cet Effet les hautes Parties Contractantes ont nommé & constitué Leurs Ambassadeurs Extraordinaires & Ministres Plenipotentiaires respectifs; Savoir, Sa Sacrée Majesté Le Roy de la Grande Bretagne, Le Très illustre & très excellent Seigneur, Jean, Duc & Comte de Bedford, Marquis de Tavistock &c., Son Ministre d'Etat, Lieutenant General de Ses Armées, Garde de son Sceau Privé, Chevalier du Très Noble Ordre de la Jarretiere, & Son Ambassadeur Extraordinaire & Ministre Plenipotentiaire près de Sa Majesté Très Chretienne; Sa Sacrée Majesté Le Roy Très Chretien, le très illustre & très excellent Seigneur, Cesar Gabriel de Choiseul, Duc de Praslin, Pair de France, Chevalier de ses Ordres, Lieutenant General de ses Armées, & de la Province de Bretagne, Conseiller en tous ses Conseils, et Ministre & Secretaire d'Etat, & de ses

[1] The French text of the treaty as here given is taken from a series of photographs reproducing the original treaty as preserved in the Public Record Office, among the State Papers of the British Foreign Office, in the section "Treaties," vol. 123.

Commandemens & Finances; Sa Sacrée Majesté Le Roy Catholique le très illustre & tres excellent Seigneur Dom Gerom Grimaldi, Marquis de Grimaldi, Chevalier des Ordres du Roy Très Chretien, Gentilhomme de la Chambre de Sa Majesté Catholique avec Exercice, & Son Ambassadeur Extraordinaire près de Sa Majesté Très Chretienne; Sa Sacrée Majesté Le Roy Très Fidele, le très illustre & très excellent Seigneur, Martin de Mello & Castro, Chevalier profès de l'Ordre de Christ, du Conseil de Sa Majesté Très Fidele, & Son Ambassadeur & Ministre Plenipotentiaire auprès de S. M^té^ Très Chret^ne^; Lesquels, après s'être duëment communiqué leurs Plein pouvoirs en bonne Forme (& dont les Copies sont transcrites à la Fin du present Traité de Paix) sont convenus des Articles, dont**** la Teneur s'ensuit.

ARTICLE 1

Il y aura une Paix Chretienne, universelle, & perpetuelle tant par Mer que par Terre, & une Amitié sincere & constante sera retablie entre Leurs Majestés Britannique, Très Chretienne, Catholique, & Très Fidele, & entre leurs Heritiers, & Successeurs, Royaumes, Etats, Provinces, Pays, Sujets, & Vassaux, de quelque Qualité et Condition qu'Ils soient, sans Exception de Lieux, ni de Personnes, en sorte que les Hautes Parties Contractantes apporteront la plus grande Attention à maintenir entr'Elles & leurs dits Etats & Sujets cette Amitié & Correspondance reciproque, sans permettre dorenavant, que de Part ni d'autre on commette aucunes Sortes d'Hostilités par Mer ou par Terre, pour quelque Cause ou sous quelque Pretexte que ce puisse être; Et on evitera soigneusement tout ce qui pourroit alterer à l'avenir l'Union heureusement retablie, s'attachant au contaire à se procurer reciproquement en toute Occasion tout ce qui pourroit contribuer à leur Gloire, Interêts, & Avantages mutuels, sans donner aucun Secours ou Protection directement ou indirectement à ceux, qui voudroient porter quelque Prejudice à l'une ou à l'autre des dites hautes Parties contractantes. Il y aura un Oubli general de tout ce qui a pû être fait ou commis avant ou depuis le Commencement de la Guerre, qui vient de finir.

ARTICLE 2

Les Traités de Westphalie de mil six cent quarante huit, ceux de Madrid entre les Couronnes de la Grande Bretagne & d'Espagne de mil six cent soixante sept, & de mil six cent soixante dix, les Traités de Paix de Nimegue, de mil six cent soixante dix huit, & de mil six cent soixante dix neuf, de Ryswick de mil six cent quatre vingt dix sept, ceux de Paix & de Commerce d'Utrecht de mil sept cent treize, celui de Bade de mil sept cent quatorze, le Traité de la triple Alliance de La Haye de mil sept cent dix sept, celui de la quadruple Alliance de Londres de mil sept cent dix huit, le Traité de Paix de Vienne de mil sept cent trente huit, le Traité Definitif d'Aix la Chapelle de mil sept cent quarante huit, & celui de Madrid entre les Couronnes de la

Grande Bretagne, & d'Espagne de mil sept cent cinquante, aussi bien que les Traités entre les Couronnes d'Espagne & de Portugal du 13. Fevrier mil six cent soixante huit, du 6. Fevrier mil sept cent quinze, & du 12. Fevrier mil sept cent soixante un, & celui du 11. Avril mil sept cent treize entre la France & le Portugal, avec les Guaranties de la Grande Bretagne; servent de Base & de Fondement à la Paix, & au present Traité; & pour cet Effet ils sont tous renouvellés & confirmés dans la meilleure Forme, ainsi que tous les Traités en general, qui subsistoient entre les hautes Parties contractantes avant la Guerre, & comme s'ils étoient inserés ici Môt à Môt, en sorte qu'ils devront être observés exactement à l'avenir dans toute leur Teneur, & religieusement executés de Part & d'autre dans tous leurs Points, auxquels il n'est pas derogé par le present Traité, nonobstant tout ce qui pourroit avoir été stipulé au contraire par aucune des Hautes Parties contractantes; Et toutes les dites Parties declarent, qu'Elles ne permettront pas qu'il subsiste aucun Privilege, Grace, ou Indulgence contraires aux Traités ci-dessus confirmés, à l'Exception de ce qui aura été accordé et stipulé par le present Traité.

Article 3

Tous les Prisonniers faits de Part & d'autre tant par Terre que par Mer, et les Otages enlêvés ou donnés, pendant la Guerre, et jusqu'à ce Jour, seront restitués sans Rançon dans six Semaines au plus tard, à compter du Jour de l'Echange de la Ratification du present Traité, chaque Couronne soldant respectivement les Avances, qui auront été faites pour la Subsistance & l'Entretien de ces Prisonniers par le Souverain du Pays, où Ils auront été detenûs, conformément aux Reçûs & Etats constatés & autres Titres autentiques, qui seront fournis de Part & d'autre. Et il sera donné reciproquement des Suretés pour le Payement des Dettes, que les Prisonniers auroient pû contracter dans les Etats, où Ils auroient été detenûs, jusqu'à leur entiere Liberté.—Et tous les Vaisseaux, tant de Guerre que marchands, qui auroient été pris depuis l'Expiration des Termes convenûs pour la Cessation des Hostilités par Mer, seront pareillement rendûs de bonne Foy, avec tous leurs Equipages, & Cargaisons; Et on procedera à l'Execution de cet Article immediatement après l'Echange des Ratifications de ce Traité.

Article 4

Sa Majesté Très Chretienne renonce à toutes les Pretensions, qu'Elle a formées autrefois, ou pû former, à la Nouvelle Ecosse, ou l'Acadie, en toutes ses Parties, & la garantit toute entiere, & avec toutes ses Dependances, au Roy de la Grande Bretagne. De plus, Sa Majesté Très Chretienne cede & garantit à Sa dite Majesté Britannique, en toute Proprieté, le Canada avec toutes ses Dependances, ainsi que l'Isle du Cap Breton, & toutes les autres Isles, & Côtes, dans le Golphe & Fleuve S^{t} Laurent, & generalement tout ce qui depend des dits Pays, Terres, Isles, & Côtes,

avec la Souveraineté, Proprieté, Possession, & tous Droits acquis par Traité, ou autrement, que le Roy Très Chretien et la Couronne de France ont eus jusqu'à present sur les dits Pays, Isles, Terres, Lieux, Côtes, & leurs Habitans, ainsi que le Roy Très Chretien cede & transporte le tout au dit Roy & à la Couronne de la Grande Bretagne, & cela de la Maniere & d[e] la Forme la plus ample, sans Restriction, & sans qu'il soit libre de revenir sous aucun Pretexte contre cette Cession & Garantie, ni de troubler la Grande Bretagne dans les Possessions sus-mentionnées. De son Coté Sa Majesté Britannique convient d'accorder aux Habitans du Canada la Liberté de la Religion Catholique; En Consequence Elle donnera les Ordres les plus precis & les plus effectifs, pour que ses nouveaux Sujets Catholiques Romains puissent professer le Culte de leur Religion selon le Rit de l'Eglise Romaine, en tant que le permettent les Loix de la Grande Bretagne.–Sa Majesté Britannique convient en outre, que les Habitans François ou autres, qui auroient eté Sujets du Roy Très Chretien en Canada, pourront se retirer en toute Sûreté & Liberté, où bon leur semblera, et pourront vendre leurs Biens, pourvû que ce soit à des Sujets de Sa Majesté Britannique, & transporter leurs Effets, ainsi que leurs Personnes, sans être genés dans leur Emigration, sous quelque Pretexte que ce puisse être, hors celui de Dettes ou de Procés criminels; Le Terme limité pour cette Emigration sera fixé à l'Espace de dix huit Mois, à compter du Jour de l'Echange des Ratifications du present Traité.

Article 5

Les Sujets de la France auront la Liberté de la Pêche, & de la Secherie, sur une Partie des Côtes de l'Isle de Terre-Neuve, telle qu'elle est specifiée par l'Article 13. du Traité d'Utrecht, lequel Article est renouvellé & confirmé par le present Traité, (à l'Exception de ce qui regarde l'Isle du Cap Breton, ainsi que les autres Isles & Côtes dans L'Embouchure et dans le Golphe S[t] Laurent;) Et Sa Majesté Britannique consent de laisser aux Sujets du Roy Très Chretien la Liberté de pêcher dans le Golphe S[t] Laurent, à Condition que les Sujets de la France n'exercent la dite Pêche, qu'à la Distance de trois Lieües de toutes les Côtes appartenantes à la Grande Bretagne, soit celles du Continent, soit celles des Isles situées dans le dit Golphe S[t] Laurent. Et pour ce qui concerne la Pêche sur les Côtes de l'Isle du Cap Breton hors du dit Golphe, il ne sera pas permis aux Sujets du Roy Très Chretien d'exercer la dite Pêche, qu'à la Distance de quinze Lieües des Côtes de l'Isle du Cap Breton; Et la Pêche sur les Côtes de la Nouvelle Ecosse, ou Acadie, et par tout ailleurs, hors du dit Golphe, restera sur le Pied des Traités anterieurs.

Article 6

Le Roy de la Grande Bretagne cede les Isles de S[t] Pierre & de Miquelon, en toute Proprieté, à Sa Majesté Très Chretienne, pour servir d'Abri aux

Pêcheurs François; Et Sa dite Majesté Très Chretienne s'oblige à ne point fortifier les dites Isles, à n'y établir que des Batimens civils pour la Commodité de la Pêche, & à n'y entretenir qu'une Garde de cinquante Hommes pour la Police.

Article 7

Afin de retablir la Paix sur des Fondemens solides & durables, & écarter pour jamais tout Sujet de Dispute par Rapport aux Limites des Territoires Britanniques et François sur le Continent de l'Amerique, il est convenû, qu'a l'avenir les Confins entre les Etats de Sa Majesté Britannique & ceux de Sa Majesté Très Chretienne en cette Partie du Monde, seront irrevocablement fixés par une Ligne tirée au milieu du Fleuve Mississippi depuis sa Naissance jusqu'à la riviere d'Iberville, & de là par une Ligne tirée au milieu de cette Riviere & des Lacs Maurepas & Pontchartrain jusqu'à la Mer; Et à cette Fin le Roy Très Chretien cede, en toute Proprieté, & garantit à Sa Majesté Britannique la Riviere & le Port de la Mobile, & tout de qu'Il possede, ou a dû posseder, du Coté gauche du fleuve Mississipi, à l'exception de la Ville de la Nouvelle Orleans, & de l'Isle dans laquelle Elle est située, qui demeureront à la France; Bien entendû, que la Navigation du Fleuve Mississippi sera également libre tant aux Sujets de la Grande Bretagne comme à ceux de la France, dans toute sa Largeur, & toute son Etendüe, depuis sa Source jusqu'à la Mer, et nommement cette Partie, qui est entre la susdite Isle de la Nouvelle Orleans & la Rive droite de ce Fleuve, aussi bien que l'Entrée & la Sortie par son Embouchure. Il est de plus stipulé, que les Batimens appartenants aux Sujets de l'une ou de l'autre Nation ne pourront être arrêtés, visités, ni assujettis au Payement d'aucun Droit quelconque.—Les Stipulations inserées dans l'Article 4. en Faveur des Habitans du Canada auront Lieu de même pour les Habitans des Pays cedés par cet Article.

Article 8

Le Roy de la Grande Bretagne restituera à la France les Isles de la Guadeloupe, de Mariegalante, de la Desirade, de la Martinique, & de Belle-Isle; Et les Places de ces Isles seront rendües dans le même Etat, où Elles étoient, quand la Conquête en a été faite par les Armes Britanniques; Bien entendû, que les Sujets de Sa Majesté Britannique, qui se seroient établis, ou ceux qui auroient quelques Affaires de Commerce à regler dans les dites Isles & autres Endroits restitués à la France par le present Traité, auront la Liberté de vendre leurs Terres, & leurs Biens, de regler leurs Affaires, de recouvrer leurs Dettes, & de transporter leurs Effets, ainsi que leurs Personnes, à bord des Vaisseaux qu'il leur sera permis de faire venir aux dites Isles, & autres Endroits, restitués comme dessus, & qui ne serviront qu'à cet Usage seulement, sans être genés à Cause de leur Religion, ou sous quelqu'autre Pretexte que ce puisse être hors celui de Dettes ou

de Procés criminels.—Et pour cet Effet le Terme de dix-huit Mois est accordé aux Sujets de Sa Majesté Britannique à compter du Jour de l'Echange des Ratifications du present Traité.—Mais comme la Liberté, accordée aux Sujets de Sa Majesté Britannique, de transporter leurs Personnes & leurs Effets sur des Vaisseaux de leur Nation pourroit être sujette à des Abus, si l'on ne prenoit la Precaution de les prevenir, il a été convenû expressement, entre Sa Majesté Britannique & Sa Majesté Très Chretienne, que le Nombre des Vaisseaux Anglois, qui auront la Liberté d'aller aux dites Isles & Lieux restitués à la France sera limité, ainsi que le Nombre de Tonneaux de chacun, qu'ils iront en lest, partiront dans un Terme fixé, & ne feront qu'un seul Voyage; Tous les Effets, appartenants aux Anglois, devant être embarqués en même Tems. Il a ete convenû en outre, que Sa Majesté Très Chretienne fera donner les Passeports necessaires pour les dits Vaisseaux; que, pour—plus grande Sureté, il sera libre de mettre deux Commis ou Gardes François sur chacun des dits Vaisseaux, qui seront visités dans les Atterages & Ports des dites Isles, & Lieux, restitués à la France; Et que les Marchandises, qui s'y pourront trouver, seront confisquées.

Article 9

Le Roy Très Chretien cede & garantit à Sa Majesté Britannique, en toute Proprieté, les Isles de la Grenade & des Grenadines, avec les mêmes Stipulations en Faveur des Habitans de cette Colonie, inserées dans l'Article 4. pour ceux du Canada; Et le Partage des Isles, appellées neutres, est convenû et fixé de maniere que celles de S^{t} Vincent la Dominique, & Tabago, resteront, en toute Proprieté, à la Grande Bretagne, & que celle de S^{te} Lucie sera remise à la France pour en jouir, pareillement en toute Propriété. —Et les hautes Parties contractantes garantissent le Partage ainsi stipulé

Article 10

Sa Majesté Britannique restituera à la France l'Isle de Gorée, dans l'Etat, où Elle s'est trouvée, quand Elle a ete conquise; Et Sa Majeste Très Chretienne cede, en toute Proprieté, et garantit au Roy de la Grande Bretagne la Riviere de Senegal, avec les Forts & Comptoirs de S^{t} Louis, de Podor, & de Galam, & avec tous les Droits & Dependances de la dite Riviere de Senegal.

Article 11

Dans les Indes Orientales La Grande Bretagne restituera à la France, dans l'Etat où ils sont aujourd'hui, les differens Comptoirs, que cette Couronne possedoit tant sur la Côte de Choromandel & d'Orixa, que sur celle de Malabar, ainsi que dans le Bengale, au Commencement de l'Année mil sept cent quarante neuf; Et Sa Majesté Très Chretienne renonce à toute Pretension aux Acquisitions, qu'Elle avoit faites sur la Côte de Choro-

mandel, & d'Orixa, depuis le dit Commencement de l'Année mil sept cent quarante neuf.—Sa Majte Très Chretienne restituera, de son Coté, tout ce qu'Elle pourroit avoir conquis sur la Grande Bretagne dans les Indes Orientales pendant la presente Guerre, & fera restituer nommement Natal & Tapanouly dans l'Isle de Sumatra. Elle s'engage de plus à ne point eriger de Fortifications, & à ne point entretenir de Troupes dans aucune Partie des Etats du Subah de Bengale.—Et afin de conserver la Paix future sur la Côte de Choromandel & d'Orixa, les Anglois & les François reconnoitront Mahomet Ali Khan pour legitime Nabob du Carnate, & Salabat Jing pour legitime Subah de Decan; Et les deux Parties renonceront à toute Demande ou Pretension de Satisfaction qu'Elles pourroient former à la Charge, l'une de l'autre, ou à celle de leurs Alliés Indiens pour les Depredations ou Degats commis soit d'un Coté, soit de l'autre pendant la Guerre.

Article 12

L'Isle de Minorque sera restituée à Sa Majesté Britannique, ainsi que le Fort St Philippe, dans le même Etat où ils se sont trouvés, lorsque la Conquête en a eté faite par les Armes du Roy Très Chretien, & avec l'Artillerie, qui y etoit lors de la Prise de la dite Isle & du dit Fort.

Article 13

La Ville & le Port de Dunkerque seront mis dans l'Etat fixé par le dernier Traité d'Aix la Chapelle, & par les Traités anterieurs;—La Cunette sera détruite immediatement après l'Echange des Ratifications du present Traité, ainsi que les Forts & Batteries, qui defendent l'Entrée du Coté de la Mer; Et il sera pourvû en même Tems à la Salubrité de l'Air & à la Santé des Habitans par quelqu'autre Moyen à la Satisfaction du Roy de la Grande Bretagne.

Article 14

La France restituera tous les Pays, appartenants à l'Electorat d'Hanovre, au Landgrave de Hesse, au Duc de Brunswick, & au Comte de la Lippe Buckebourg, qui se trouvent, ou se trouveront, occupés par les Armes de Sa Majesté Très Chretienne; Les Places de ces differens Pays seront renduës dans le même Etat où Elles étoient, quand la Conquête en a eté faite par les Armes Françoises; Et les Pieces d'Artillerie, qui auront eté transportées ailleurs, seront remplacées par le même Nombre de même Calibre, Poids, & Metal.

Article 15

En Cas que les Stipulations, contenües dans l'Article 13, des Preliminaires ne fussent pas accomplies lors de la Signature du present Traité, tant par Rapport aux Evacuations à faire par les Armées de la France

des Places de Cleves, de Wesel, de Gueldres, & de tous les Pays, appartenants au Roy de Prusse, que par Rapport aux Evacuations à faire par les Armées Britannique & Françoise des Pays, qu'Elles occupent en Westphalie, Basse-Saxe, sur le Bas-Rhin, le Haut Rhin, & dans tout l'Empire, & à la Retraite des Troupes dans les Etats de Leurs Souverains respectifs, Leurs Majestés Britannique & Très Chretienne promettent de proceder de bonne Foy, avec toute la Promptitude que le Cas pourra permettre, aux dites Evacuations, dont Ils stipulent l'Accomplissement parfait avant le quinze de Mars prochain, ou plutôt, si faire se peut.—Et Leurs Majestés Britannique & Très Chretienne s'engagent de plus, & se promettent, de ne fournir aucun Secours, dans aucun Genre, à Leurs Alliés respectifs, qui resteront engagés dans la Guerre d'Allemagne.

ARTICLE 16

La Décision des Prises, faites en Tems de Paix par les Sujets de la Grande Bretagne sur les Espagnols, sera remise aux Cours de Justice de l'Amirauté de la Grande Bretagne, conformement aux Regles établies parmi toutes les Nations, de sorte que la Validité des dites Prises entre les Nations Britannique & Espagnole sera decidée & jugée, selon le Droit des Gens, & selon les Traités, dans les Cours de Justice de la Nation, qui aura fait la Capture.

ARTICLE 17

Sa Majesté Britannique fera demolir toutes les Fortifications, que ses Sujets pourront avoir erigées dans la Baye de Honduras, & autres Lieux du Territoire de l'Espagne dans cette Partie du Monde, quatre Mois après la Ratification du present Traité; Et Sa Majesté Catholique ne permettra point, que les Sujets de Sa Majesté Britannique, ou leurs Ouvriers, soient inquietés ou molestés sous aucun Pretexte que ce soit, dans les dits Lieux, dans leur Occupation de couper, charger, & transporter, le Bois de Teinture ou de Campêche; Et pour cet Effet Ils pourront bâtir, sans Empêchement, & occuper sans Interruption, les Maisons & les Magazins, qui sont necessaires pour Eux, pour leurs Familles, & pour leurs Effets; Et Sa Majesté Catholique leur assure par cet Article l'entiere Jouïssance de ces Avantages, & Facultés sur les Côtes & Territoires Espagnols, comme il est stipulé ci-dessus, immediatement après la Ratification du present Traité.

ARTICLE 18

Sa Majesté Catholique se desiste, tant pour Elle que pour ses Successeurs, de toute Pretension, qu'Elle peut avoir formée en Faveur des Guipuscoans & autres de ses Sujets au Droit de pêcher aux Environs de l'Isle de Terre-Neuve.

ARTICLE 19

Le Roy de la Grande Bretagne restituera à l'Espagne tout le Territoire qu'Il a conquis dans l'Isle de Cuba, avec la Place de la Havane; Et cette Place, aussi bien que toutes les autres Places de la dite Isle, seront rendües dans le même Etat, où Elles etoient, quand Elles ont été conquises par les Armes de Sa Majesté Britannique: Bien entendû, que les Sujets de Sa Majesté Britannique, qui se seroient établis, ou ceux qui auroient quelques Affaires de Commerce à regler, dans la dite Isle, restituée à l'Espagne par le present Traité, auront la Liberté de vendre leurs Terres, & leurs Biens, de regler leurs Affaires, de recouvrer leurs Dettes, et de transporter leurs Effets ainsi que leurs Personnes à bord des Vaisseaux, qu'il leur sera permis de faire venir à la dite Isle, restituée comme dessus, & qui ne serviront qu'à cet Usage seulement, sans être genés à Cause de leur Religion, ou sous quelqu'autre Pretexte que ce puisse être, hors celui de Dettes ou de Procès criminels; Et pour cet Effet le Terme de dix huit Mois est accordé aux Sujets de Sa Majesté Britannique, à compter du Jour de l'Echange des Ratifications du present Traité.—Mais comme la Liberté, accordée aux Sujets de Sa Majesté Britannique de transporter leurs Personnes & leurs Effets sur des Vaisseaux de leur Nation, pourroit être sujette à des Abus, si l'on ne prenoit la Precaution de les prevenir, il a été convenû expressement entre Sa Majesté Britannique & Sa Majesté Catholique, que le Nombre des Vaisseaux Anglois, qui auront la Liberté d'aller à la dite Isle restituée à l'Espagne, sera limité, ainsi que le Nombre de Tonneaux de chacun, qu'ils iront en lest, partiront dans un Terme fixé, & ne feront qu'un seul Voyage; Tous les Effets, appartenants aux Anglois, devant être embarqués en même Tems.—Il a été convenû en outre, que Sa Majesté Catholique fera donner les Passeports necessaires pour les dits Vaisseaux; que, pour plus grande Sureté, il sera libre de mettre deux Commis ou Gardes Espagnols sur chacun des dits Vaisseaux, qui seront visités dans les Atterages et Ports de la dite Isle restituée à l'Espagne et que les Marchandises, qui s'y pourront trouver, seront confisquées.

ARTICLE 20

En Consequence de la Restitution stipulée dans l'article precedent, Sa Majesté Catholique cede et garantit, en tout Proprieté, à Sa Majesté Britannique, la Floride, avec le Fort de S^{t} Augustin, & la Baye de Pensacola, ainsi que tout ce que l'Espagne possede sur le Continent de l'Amerique septentrionale, à l'Est, ou au Sud Est, du fleuve Mississippi, & generalement tout ce qui depend des dits Pays & Terres, avec la Souveraineté, Proprieté, Possession, & tous Droits acquis par Traité ou autrement, que Le Roy Catholique & la Couronne d'Espagne, ont eus jusqu'à present sur les dits Pays, Terres, Lieux, & leurs Habitans; Ainsi que Le Roy Catholique cede & transporte le tout au dit Roy & à la Couronne de la Grande Bretagne, & cela de la Maniere & de la Forme la plus ample; Sa Majesté Britannique

convient de son Coté d'acccorder aux Habitans des Pays ci-dessus cedés la Liberté de la Religion Catholique; En Consequence Elle donnera les Ordres les plus exprès & les plus effectifs, pour que ses nouveaux Sujets Catholiques Romains puissent professer le Culte de leur Religion selon le Rit de l'Eglise Romaine, en tant que le permettent les Loix de la Grande Bretagne: Sa Majesté Britannique convient en outre, que les Habitans Espagnols, ou autres qui auroient eté Sujets du Roy Catholique, dans les dits Pays, pourront se retirer en toute Sureté et Liberté, où bon leur semblera et pourront vendre leurs Biens, pourvû que ce soit à des Sujets de Sa Majesté Britannique, & transporter leurs Effets, ainsi que leurs Personnes, sans être genés dans leur Emigration, sous quelque Pretexte que ce puisse être, hors celui de Dettes ou de Procès criminels; Le Terme, limité pour cette Emigration, étant fixé à l'Espace de dix-huit Mois, à compter du Jour de l'Echange des Ratifications du present Traité.—Il est de plus stipulé, que Sa Majesté Catholique aura la Faculté de faire transporter tous les Effets, qui peuvent Lui appartenir, soit Artillerie, ou autres.

ARTICLE 21

Les Troupes Francoises & Espagnoles evacueront tous les Territoires, Campagnes, Villes, Places, & Chateaux, de Sa Majesté Très Fidele, en Europe, sans Reserve aucune, qui pourront avoir eté conquis par les Armées de France & d'Espagne, & les rendront dans le même Etat où Ils étoient, quand la Conquête en a eté faite, avec la même Artillerie, & les Munitions de Guerre, qu'on y a trouvées; Et à l'Egard des Colonies Portugaises, en Amerique, Afrique, ou dans les Indes Orientales, s'il y étoit arrivé quelque Changement, toutes Choses seront remises sur le même Pied, où Elles étoient, et en Conformité des Traités precedens, qui subsistoient entre les Cours de France, d'Espagne, & de Portugal, avant la presente Guerre.

ARTICLE 22

Tous les Papiers, Lettres, Documens & Archives, qui se sont trouvés dans les Pays, Terres, Villes, & Places, qui sont restitués, & ceux appartenants aux Pays cedés, seront deliverés, ou fournis, respectivement, & de bonne Foi, dans le même Tems, s'il est possible, de la Prise de Possession, ou au plus tard, quatre Mois après l'Echange des Ratifications du present Traité, en quelque Lieu que les dits Papiers ou Documens puissent se trouver.

ARTICLE 23

Tous les Pays, & Territoires, qui pourroient avoir eté conquis, dans quelque Partie du Monde que ce soit, par les Armes de Leurs Majestés Britannique & Très Fidele, ainsi que par celles de Leurs Majestés Très Chretienne & Catholique, qui ne sont pas compris dans le present Traité,

ni à Titre de Cessions, ni a Titre de Restitutions, seront rendûs sans Difficulté, & sans exiger de Compensation.

Article 24

Comme il est necessaire de designer une Epôque fixe pour les Restitutions & les Evacuations à faire, par chacune des Hautes Parties Contractantes, il est convenû que les Troupes Britanniques & Françoises completteront, avant le quinze de Mars prochain, tout ce qui restera à executer des Articles 12 & 13 des Preliminaires, signés le 3 Jour de Novembre passé, par Rapport à l'Evacuation à faire dans l'Empire, ou ailleurs.—L'Isle de Belle-isle sera évacuée six semaines après l'Echange des Ratifications du present Traité, ou plutôt si faire se peut.—La Guadeloupe, la Desirade, Mariegalante, la Martinique, & S^te^ Lucie, trois Mois après l'Echange des Ratifications du present Traité, ou plutôt, si faire se peut.—La Grande Bretagne entrera pareillement au Bout de trois Mois après l'Echange de Ratifications du present Traité, ou plutôt si faire se peut, en Possession de la Riviere & du Port de la Mobile, & de tout ce qui doit former les Limites du Territoire de La Grande Bretagne du Coté du Fleuve de Mississippi, telles qu'elles sont specifiées dans l'Article 7.—L'Isle de Gorée sera évacuée par La Grande Bretagne trois Mois après l'Echange des Ratifications du present Traité;—Et L'Isle de Minorque par La France à la même Epôque, ou plutôt si faire se peut;—Et, selon les Conditions de l'Article 6, La France entrera de même en Possession des Isles de S^t^ Pierre & de Miquelon, au Bout de trois Mois après l'Echange des Ratifications du present Traité.—Les Comptoirs aux Indes Orientales seront rendûs six Mois après l'Echange des Ratifications du present Traité, ou plutôt si faire se peut.—La Place de la Havane avec tout ce qui a eté conquis dans l'Isle de Cuba, sera restituée trois Mois après l'Echange des Ratifications du present Traité, ou plutôt si faire se peut; Et en même Tems La Grande Bretagne entrera en Possession du Pays cedé par l'Espagne selon l'Article 20.—Toutes les Places & Pays de Sa Majesté Très Fidèle en Europe seront restitués immediatement après l'Echange des Ratifications du present Traité; Et les Colonies, Portugaises, qui pourront avoir eté conquises, seront restituées dans l'Espace de trois Mois dans les Indes Occidentales, & de six Mois dans les Indes Orientales, après l'Echange des Ratifications du present Traité, ou plutôt si faire se peut.—Toutes les Places, dont la Restitution est stipulée ci-dessus, seront rendues avec l'Artillerie, & les Munitions, qui s'y sont trouvées lors de la Conquête.—En Consequence de quoi les Ordres necessaires seront envoyés par chacune des Hautes Parties Contractantes avec les Passeports reciproques pour les Vaisseaux, qui les porteront, immediatement après l'Echange des Ratifications du present Traité.

ARTICLE 25

Sa Majesté Britannique, en sa Qualité d'Electeur de Brunswick Lunebourg, tant pour Lui que pour ses Heritiers & Successeurs, & tous les Etats & Possessions de Sa d[e] Majesté en Allemagne sont compris & garantis par le present Traité de Paix.

ARTICLE 26

Leurs Sacrées Majestés, Britannique, Très Chretienne, Catholique, & Très Fidele, promettent d'observer sincerement & de bonne Foy tous les Articles, contenûs & établis dans le present Traité; Et Elles ne souffriront pas, qu'il y soit fait de Contravention directe ou indirecte par leurs Sujets respectifs; Et les susdites Hautes Parties Contractantes se garantissent generalement & reciproquement toutes les Stipulations du present Traité.

ARTICLE 27

Les Ratifications solemnelles du present Traité, expediées en bonne & düe Forme, seront échangées, en cette Ville de Paris, entre Les Hautes Parties Contractantes dans l'Espace d'un Mois, ou plutôt s'il est possible, à compter du Jour de la Signature du present Traité.

En Foy de quoi Nous soussignés, Leurs Ambassadeurs Extraordinaires & Ministres Plenipotentiaires avons signé de Notre Main, en leur Nom, & en Vertu de nos Plein pouvoirs, le present Traité Definitif, & y avons fait apposer le Cachet de Nos Armes.

Fait à Paris le dix de Fevrier mil sept cent soixante trois.

Bedford C.P.S. Choiseul duc de Praslin. el Marq[s] de Grimaldi.

L.S. L.S. L.S.

ARTICLES SEPARÉS

1

Quelques uns des Titres, employés par les Puissances Contractantes, soit dans les Pleinpouvoirs, et autres Actes, pendant le Cours de la Negotiation, soit dans le Preambule du present Traité, n'etant pas generalement reconnus, il a été convenu, qu'il ne pourroit jamais en resulter aucun prejudice pour aucune des dites Parties Contractantes, et que les Titres, pris ou omis, de part et d'autre, à l'Occasion de la dite Negociation, et du present Traité, ne pourront etre cités, ni tirés à Consequence.

2

Il a été convenu et arreté que la Langue Françoise, employée dans tous les Exemplaires du present Traité, ne formera point un Exemple, qui puisse etre allegué, ni tiré à consequence, ni porter prejudice, en aucune Maniere, à aucune des Puissances Contractantes; Et que l'on se conformera, a l'avenir, à ce qui a été observé, et doit etre observé, à l'egard, et de la Part, des Puissances, qui sont en usage, et en Possession, de donner, et de recevoir, des Exemplaires, de semblables Traités, en une autre Langue que la Françoise.—Le present Traité ne laissant pas d'avoir la même Force et Vertu, que si le susdit Usage y avoit été observé.

3

Quoique le Roy de Portugal n'ait pas signé le present Traité definitif, Leurs Majestés Britannique, Très Chretienne, et Catholique reconnoissent néanmoins, que Sa Majesté Très Fidele y est formellement comprise comme partie contractante, et comme si elle avoit expressement Signé le dit Traité; En Consequence, Leurs Majestés Britannique, TrèsChretienne et Catholique, s'engagent respectivement et conjointement avec Sa Majesté Très Fidele, de la façon la plus expresse et la plus obligatoire, à l'Execution de toutes, et chacune des clauses, contenües dans le dit Traité, moyennant Son Acte d'Accession.

Les presens Articles separés auront la meme Force, que s'ils etoient inserés dans le Traité.

En Foy de quoi nous Soussignés Ambassadeurs Extraordinaires et Ministres Plenipotentiaires de Leurs Majestes Britannique, Tres Chretienne, et Catholique, avons Signé les presens Articles separés, et y avons fait apposer le Cachet de Nos Armes.

Fait à Paris le Dix de Fevrier Mil sept cent soixante et trois.

BedfordC. P.S. Choiseul duc de Praslin. el Marq^{s} de Grimaldi.

L.S. L.S. L.S.

GEORGIUS R.

Georgius Tertius, Dei Gratiâ, Magnæ Britanniæ Franciæ, et Hiberniæ Rex, Fidei Defensor, Dux Brunsvicensis et Luneburgensis, sacri Romani Imperii Archi-Thesaurarius, et Princeps Elector &c^{a} : Omnibus et singulis ad quos præsentes hæ Literæ pervenerint, Salutem: Cum ad Pacem perficiendam inter Nos, et Bonum Fratrem Nostrum Regem Fidelissimum ex unâ Parte, et bonos Fratres Nostros Reges Christianissimum et Catholicum, ex alterâ, quæ jam, signatis apud Fontainebleau Die Mensis currentis

Tertio Articulis Preliminariis, feliciter inchoata est, eamque ad Finem exoptatum perducendam, Virum aliquem idoneum ex Nostrâ Parte, plenâ Auctoritate munire Nobis è Re visum sit;—Sciatis quod Nos Fide, Judicio, atque in Rebus maximi Momenti tractandis Usu ac Solertiâ, perdilecti et perquàm Fidelis, Consanguinei, et Consiliarii Nostri, Johannis Ducis et Comitis de Bedford, Marchionis de Tavistock, Baronis Russel de Cheneys, Baronis Russel de Thornhaugh; et Baronis Howland de Streatham, Exercituum Nostrorum Locum tenentis Generalis, Privati Nostri Sigilli Custodis, Comitatuum Bedfordiæ et Devoniæ Locum tenentis, et Custodis Rotulorum, Nobilissimi Ordinis Nostri Periscelidis Equitis, et Legati Nostri Extraordinarii et Plenipotentiarii apud Bonum Fratrem Nostrum Regem Christinissimum plurimum confisi, Eundem nominavimus, fecimus constituimus et ordinavimus, quemadmodum per præsentes, nominamus facimus constituimus et ordinamus, verum, certum, et indubitatum Ministrum, Commissarium, Deputatum, Procuratorem, et Plenipotentiarium Nostrum, dantes Eidem, omnem, et omnimodam Potestatem, Facultatem, Authoritatemque, necnon Mandatum generale, pariter ac speciale, (ita tamen ut generale speciali non deroget, nec è contrà) pro Nobis et Nostro Nomine, unà cum Legatis, Commissariis Deputatis, et Plenipotentiariis Principum quorum interesse poterit, sufficienti itidem Potestate atque Authoritate instructis, tam singulatim ac divisim, quam aggregatim ac conjunctim, congrediendi et colloquendi, atque cum Ipsis de Pace firmâ et stabili, sincerâque Amicitiâ et Concordiâ, quantocius restituendis, conveniendi, tractandi, consulendi, et concludendi, idque omne quod ita conventum et conclusum fuerit, pro Nobis, et Nostro Nomine, subsignandi, atque Tractatum, Tractatusve, super ita conventis et conclusis, conficiendi, omniaque alia quæ ad Opus supra dictum feliciter exequendum pertinent, transigendi, tam amplis Modo et Formâ, ac Vi, Effectuque pari, ac Nos, si interessemus, facere, et præstare possemus; Spondentes, et in Verbo Regio promittentes, Nos omnia et singula quæcunque à dicto Nostro Plenipotentiario transigi et concludi contigerit, gratum, ratum, et acceptum, omni meliori Modo, habituros, neque passuros unqam, ut in toto, vel in Parte, à quopiam violentur, aut ut eïs in contrarium eatur. In quorum omnium majorem Fidem et Robur Præsentibus, Manu Nostrâ Regiâ signatis, Magnum Nostrum Magnæ Britanniæ Sigillum appendi fecimus. Quæ dabantur in Palatio Nostro Divi Jacobi Die Duodecimo Mensis Novembris Anno Domini Millesimo Septengentesimo Sexagesimo Secundo, Regnique Nostri Tertio.

Louis, par la Grace de Dieu, Roi de France et de Navarre, à tous ceux qui ces presentes Lettres verront, Salut. comme les Preliminaires signés à fontainebleau le troisieme novembre de l'année derniere, ont posé les fondemens de la Paix retablie entre nous et notre Très cher et très amè bon frere et Cousin le Roi d'Espagne d'une part, et notre Très cher et très amè bon frere le Roy de la Grande Bretagne, et notre Très cher et très amè

bon frere et Cousin le Roi de Portugal de l'autre, nous n'avons eû rien plus à cœur depuis cette heureuse époque, que de consolider et affermir de la façon la plus durable un si salutaire et si important ouvrage par un Traité solemnel et definitif entre nous et les dittes Puissances. Pour ces causes et autres bonnes considerations à ce nous mouvans, nous confiant entierement en la capacité et experience, zêle et fidelité pour notre service de notre Très cher et bien amè Cousin Cesar Gabriel de Choiseul, Duc de Praslin, Pair de france, Chevalier de nos Ordres, Lieutenant General de nos Armées et de la Province de Bretagne, Conseiller en tous nos Conseils, Ministre et Secretaire d'Etat et de nos Commandemens et finances, nous l'avons nommé Commis et deputé et par ces presentes signées de notre main, le nommons, commettons et députons notre Ministre Plenipotentiaire, lui donnant plein et absolu pouvoir d'agir en cette qualité et de conferer, negotier, Traiter et convenir conjointement, avec le Ministre Plenipotentiaire de notre Très cher et Très Amè bon frere le Roi de la Grande Bretagne, le Ministre Plenipotentiaire de notre Très cher et très Amè bon frere et cousin le Roi d'Espagne et le Ministre Plenipotentiaire de notre Très cher et très Amè bon frere et Cousin le Roi de Portugal, revêtus de Pleinpouvoirs en bonne forme, arrêter conclure et signer tels articles, conditions, conventions, declarations, Traité définitif, accessions et autres actes quelconques qu'Il Jugera convenables pour assûrer et affermir le grand ouvrage de la Paix; le tout avec la même liberté et autorité que nous pourrions faire nous-mêmes, si nous y étions presens en personne, encore qu'il y eût quelque chose qui requit un mandement plus special qu'il n'est contenu dans ces presentes; Promettant en foi et parole de Roy, d'avoir agréable, tenir ferme et stable à Toujours, accomplir et executer ponctuellement tout de que notre dit Cousin le Duc de Praslin aura stipulé, promis et signé en vertu du present pleinpouvoir sans jamais y contrevenir, ni permettre qu'il y Soit contrevenu pour quelque cause et sous quelque pretexte que ce puisse être, comme aussi d'en faire expedier nos Lettres de ratifications en bonne forme et de les faire delivrer pour être echangées dans le têms dont il Sera convenu. Car tel est notre Plaisir. En temoin de quoi nous avons fait mettre notre scel à ces presentes. Donné à Versailles le Septieme jour du mois de fevrier l'an de grace mille sept cent soixante trois et de notre Regne le quarante huitieme, signé Louis et sur le repli, Par le Roi, le Duc de Choiseul. Scellé du grand sceau de cire jaune.

Don Carlos, por la Gracia de Dios, Rey de Castilla, de Leon, de Aragon, de las dos Sicilias, de Jerusalem, de Navarra, de Granada, de Toledo, de Valencia, de Galicia, de Mallorca, de Sevilla, de Cerdêna, de Cordova, de Corcega, de Murcia, de Jaen, de los Algarbes, de Algecira, de Gibraltar, de las Islas de Canaria, de las Indias Orientales y Occidentales, Islas y Tierra

firme del Mar Oceano; Archiduque de Austria; Duque de Borgôna, de Brabante, y Milan; Conde de Absburg, de Flandes, del Tirol y Barcelona; Senôr de Vizcaya, y de Molina &c^{a}: Por quanto haviendose, concluido y firmado en el Real sitio de Fontainebleau el Dia tres de Noviembre del presente Anô, y cangeadose las respectivas Ratificaciones el veinte y dos del mismo mes por Ministros autorizados ã este Fin, los Preliminares de una Paz solida y duradera entre esta Corona, y la de Francia de una Parte, la de Inglaterra y la de Portugal de Otra; en los quales se promete venir luego à un tratado Definitivo, estableciendo y arreglando los Puntos Capitales sobre que ha de girar; y respecto ã que del mismo modo que concedi mi Plenopoder para tratar, ajustar, y firmar los mencionados Preliminares ã vos Don Geronimo Grimaldi, Marques de Grimaldi, Caballero de la Orden de Santi Spiritus, mi Gentil-hombre de Camara con Ejercicio, y mi Embajador Extraordinario al Rey Christianissimo. Se necessita que a Vos, ú á otro le conceda para tratar, ajsustar, y firmar el mencionado prometido tratado Definitivo de Paz: Por tanto estando vos el citado Don Geronimo Grimaldi, Marques de Grimaldi en el parage necessario y teniendo yo cada dia mas Motivos para fiaros esta, y otras tales Importancias de mi Corona, por vuestra acrisolada Fidelidad y zelo, Capacidad y Prudencia; he venido en constituiros mi Ministro Plenipotentiario y en concederos todo mi Plenopoder para que en mi Nombre y representando mi propria Persona, Trateis, Arregleis, convengais y firmeis dicho tratado Definitivo de Paz, entre mi Corona y la de Francia de una Parte, la de Inglaterra y la de Portugal de Otra, con los Ministros que estuvieren autorizados igual y especialmente por sus respectivos Soberanos ad mismo Fin: dando, como doi des de ahora por grato y rato todo lo que assi Trateis Concluyais y firmeis; y ofreciendo baso mi palabra Real que lo observaré y cumpliré, lo haré observar y cumplir como si por mi mismo lo huviesse tratado, concludo, y firmado. En fe de lo qual hize expedir el presente firmado de mi Mano, sellado con mi Sello secreto, y refrendado de mi infrascrito Consejero de Estado, y mi Primer Secretario del Despacho de Estado y de la Guerra. En Buen Retiro ã Diez de Deciembre de mil setecientos Sesenta y dos.

Firmado = YO EL REY.

Y mas abajo = RICARDO WALL.

endorsed: Definitive Treaty, and Three Separate Articles, between His Majesty, the Most Christian King, and the Catholick King. dated Paris Feb^{ry} 10th 1763.

(*Translation.*)[1]

The definitive Treaty of Peace and Friendship between his Britannick Majesty, *the* Most Christian King, *and the* King *of* Spain. *Concluded at* Paris *the 10th day of* February, 1763. *To which the* King *of* Portugal *acceded on the same day.* (Printed from the Copy.)

In the Name of the Most Holy and Undivided Trinity, Father, Son, and Holy Ghost. So be it.

Be it known to all those whom it shall, or may, in any manner, belong,

It has pleased the Most High to diffuse the spirit of union and concord among the Princes, whose divisions had spread troubles in the four parts of the world, and to inspire them with the inclination to cause the comforts of peace to succeed to the misfortunes of a long and bloody war, which having arisen between England and France during the reign of the Most Serene and Most Potent Prince, George the Second, by the grace of God, King of Great Britain, of glorious memory, continued under the reign of the Most Serene and Most Potent Prince, George the Third, his successor, and, in its progress, communicated itself to Spain and Portugal: Consequently, the Most Serene and Most Potent Prince, George the Third, by the grace of God, King of Great Britain, France, and Ireland, Duke of Brunswick and Lunenbourg, Arch Treasurer and Elector of the Holy Roman Empire; the Most Serene and Most Potent Prince, Lewis the Fifteenth, by the grace of God, Most Christian King; and the Most Serene and Most Potent Prince, Charles the Third, by the grace of God, King of Spain and of the Indies, after having laid the foundations of peace in the preliminaries signed at Fontainebleau the third of November last; and the Most Serene and Most Potent Prince, Don Joseph the First, by the grace of God, King of Portugal and of the Algarves, after having acceded thereto, determined to compleat, without delay, this great and important work. For this purpose, the high contracting parties have named and appointed their respective Ambassadors Extraordinary and Ministers Plenipotentiary, viz. his Sacred Majesty the King of Great Britain, the Most Illustrious and Most Excellent Lord, John Duke and Earl of Bedford, Marquis of Tavistock, &c. his Minister of State, Lieutenant General of his Armies, Keeper of his Privy Seal, Knight of the Most Noble Order of the Garter, and his Ambassador Extraordinary and Minister Plenipotentiary to his Most Christian Majesty; his Sacred Majesty the Most Christian King, the Most Illustrious and Most Excellent Lord, Cæsar Gabriel de Choiseul, Duke of Praslin, Peer of France, Knight of his Orders, Lieutenant General of his Armies and of the province of Britanny, Counsellor of all his Counsils, and Minister and Secretary of State, and of his Commands and Finances; his Sacred Majesty the Catholick King, the

[1] The English version of the Treaty of 1763 is taken from the Collection of Treaties compiled by the Hon. Charles Jenkinson, afterwards Lord Liverpool, and which appeared under the following title:—"A Collection of all the Treaties of Peace, Alliance, and Commerce, Between Great-Britain and other Powers. From the Treaty signed at Munster in 1648, to the Treaties signed at Paris in 1783. By the Right Hon. Charles Jenkinson. In three Volumes." The Treaty of 1763 is contained in Vol. III, pp. 177-197.

Most Illustrious and Most Excellent Lord, Don Jerome Grimaldi, Marquis de Grimaldi, Knight of the Most Christian King's Orders, Gentleman of his Catholick Majesty's Bedchamber in Employment, and his Ambassador Extraordinary to his Most Christian Majesty; his Sacred Majesty the Most Faithful King, the Most Illustrious and Most Excellent Lord, Martin de Mello and Castro, Knight professed of the Order of Christ, of his Most Faithful Majesty's Council, and his Ambassador and Minister Plenipotentiary to his Most Christian Majesty.

Who, after having duly communicated to each other their full powers, in good form, copies whereof are transcribed at the end of the present treaty of peace, have agreed upon the articles, the tenor of which is as follows:

Article I. There shall be a Christian, universal, and perpetual peace, as well by sea as by land, and a sincere and constant friendship shall be re established between their Britannick, Most Christian, Catholick, and Most Faithful Majesties, and between their heirs and successors, kingdoms, dominions, provinces, countries, subjects, and vassals, of what quality or condition soever they be, without exception of places or of persons: So that the high contracting parties shall give the greatest attention to maintain between themselves and their said dominions and subjects this reciprocal friendship and correspondence, without permitting, on either side, any kind of hostilities, by sea or by land, to be committed from henceforth, for any cause, or under any pretence whatsoever, and every thing shall be carefully avoided which might hereafter prejudice the union happily re-established, applying themselves, on the contrary, on every occasion, to procure for each other whatever may contribute to their mutual glory, interests, and advantages, without giving any assistance or protection, directly or indirectly, to those who would cause any prejudice to either of the high contracting parties: there shall be a general oblivion of every thing that may have been done or committed before or since the commencement of the war which is just ended.

II. The treaties of Westphalia of 1648; those of Madrid between the Crowns of Great Britain and Spain of 1667, and 1670; the treaties of peace of Nimeguen of 1678, and 1679; of Ryswick of 1697; those of peace and of commerce of Utrecht of 1713; that of Baden of 1714; the treaty of the triple alliance of the Hague of 1717; that of the quadruple alliance of London of 1718; the treaty of peace of Vienna of 1738; the definitive treaty of Aix la Chapelle of 1748; and that of Madrid, between the Crowns of Great Britain and Spain of 1750: as well as the treaties between the Crowns of Spain and Portugal of the 13th of February, 1668; of the 6th of February, 1715; and of the 12th of February, 1761; and that of the 11th of April, 1713, between France and Portugal with the guaranties of Great Britain, serve as a basis and foundation to the peace, and to the present treaty: and for this purpose they are all renewed and confirmed in the best form, as well as all the general, which subsisted between the high contracting parties before the war, as if they were inserted here word for word, so that

they are to be exactly observed, for the future, in their whole tenor, and religiously executed on all sides, in all their points, which shall not be derogated from by the present treaty, notwithstanding all that may have been stipulated to the contrary by any of the high contracting parties: and all the said parties declare, that they will not suffer any privilege, favour, or indulgence to subsist, contrary to the treaties above confirmed, except what shall have been agreed and stipulated by the present treaty.

III. All the prisoners made, on all sides, as well by land as by sea, and the hostages carried away or given during the war, and to this day, shall be restored, without ransom, six weeks, at least, to be computed from the day of the exchange of the ratification of the present treaty, each crown respectively paying the advances which shall have been made for the subsistance and maintenance of their prisoners by the Sovereign of the country where they shall have been detained, according to the attested receipts and estimates and other authentic vouchers which shall be furnished on one side and the other. And securities shall be reciprocally given for the payment of the debts which the prisoners shall have contracted in the countries where they have been detained until their entire liberty. And all the ships of war and merchant vessels which shall have been taken since the expiration of the terms agreed upon for the cessation of hostilities by sea shall likewise be restored, *bonâ fide*, with all their crews and cargoes: and the execution of this article shall be proceeded upon immediately after the exchange of the ratifications of this treaty.

IV. His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadia in all its parts, and guaranties the whole of it, and with all its dependencies, to the King of Great Britain: Moreover, his Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the island of Cape Breton, and all the other islands and coasts in the gulph and river of St. Lawrence, and in general, every thing that depends on the said countries, lands, islands, and coasts, with the sovereignty, property, possession, and all rights acquired by treaty, or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts, and their inhabitants, so that the Most Christian King cedes and makes over the whole to the said King, and to the Crown of Great Britain, and that in the most ample manner and form, without restriction, and without any liberty to depart from the said cession and guaranty under any pretence, or to disturb Great Britain in the possessions above mentioned. His Britannick Majesty, on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada: he will, in consequence, give the most precise and most effectual orders, that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French

inhabitants, or others who had been subjects of the Most Christian King in Canada, may retire with all safety and freedom wherever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons, without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions: The term limited for this emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratification of the present treaty.

V. The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the XIIIth article of the treaty of Utrecht; which article is renewed and confirmed by the present treaty, (except what relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St. Lawrence:) And his Britannick Majesty consents to leave to the subjects of the Most Christian King the liberty of fishing in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said gulph of St. Lawrence. And as to what relates to the fishery on the coasts of the island of Cape Breton, out of the said gulph, the subjects of the Most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton; and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties.

VI. The King of Great Britain cedes the islands of St. Pierre and Macquelon, in full right, to his Most Christian Majesty, to serve as a shelter to the French fishermen; and his said Most Christian Majesty engages not to fortify the said islands; to erect no buildings upon them but merely for the conveniency of the fishery; and to keep upon them a guard of fifty men only for the police.

VII. In order to re-establish peace on solid and durable foundations, and to remove for ever all subject of dispute with regard to the limits of the British and French territories on the continent of America; it is agreed, that, for the future, the confines between the dominions of his Britannick Majesty and those of his Most Christian Majesty, in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the River Mississippi, from its source to the river Iberville, and from thence, by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain to the sea; and for this purpose, the Most Christian King cedes in full right, and guaranties to his Britannick Majesty the river and port of the Mobile, and every thing which he possesses, or ought to possess, on the left side of the river Mississippi, except the town of New Orleans and the island in which it is situated, which shall remain

to France, provided that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole breadth and length, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth: It is farther stipulated, that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatsoever. The stipulations inserted in the IVth article, in favour of the inhabitants of Canada shall also take place with regard to the inhabitants of the countries ceded by this article.

VIII. The King of Great Britain shall restore to France the islands of Guadeloupe, of Mariegalante, of Desirade, of Martinico, and of Belleisle; and the fortresses of these islands shall be restored in the same condition they were in when they were conquered by the British arms, provided that his Britannick Majesty's subjects, who shall have settled in the said islands, or those who shall have any commercial affairs to settle there or in other places restored to France by the present treaty, shall have liberty to sell their lands and their estates, to settle their affairs, to recover their debts, and to bring away their effects as well as their persons, on board vessels, which they shall be permitted to send to the said islands and other places restored as above, and which shall serve for this use only, without being restrained on account of their religion, or under any other pretence whatsoever, except that of debts or of criminal prosecutions: and for this purpose, the term of eighteen months is allowed to his Britannick Majesty's subjects, to be computed from the day of the exchange of the ratifications of the present treaty; but, as the liberty granted to his Britannick Majesty's subjects, to bring away their persons and their effects, in vessels of their nation, may be liable to abuses if precautions were not taken to prevent them; it has been expressly agreed between his Britannick Majesty and his Most Christian Majesty, that the number of English vessels which have leave to go to the said islands and places restored to France, shall be limited, as well as the number of tons of each one; that they shall go in ballast; shall set sail at a fixed time; and shall make one voyage only; all the effects belonging to the English being to be embarked at the same time. It has been farther agreed, that his Most Christian Majesty shall cause the necessary passports to be given to the said vessels; that, for the greater security, it shall be allowed to place two French clerks or guards in each of the said vessels, which shall be visited in the landing places and ports of the said islands and places restored to France, and that the merchandize which shall be found therein shall be confiscated.

IX. The Most Christian King cedes and guaranties to his Britannick Majesty, in full right, the islands of Grenada, and the Grenadines, with the same stipulations in favour of the inhabitants of this colony, inserted in the IVth article for those of Canada: And the partition of the islands called neutral, is agreed and fixed, so that those of St. Vincent, Dominico,

and Tobago, shall remain in full right to Great Britain, and that of St. Lucia shall be delivered to France, to enjoy the same likewise in full right, and the high contracting parties guaranty the partition so stipulated.

X. His Britannick Majesty shall restore to France the island of Goree in the condition it was in when conquered: and his Most Christian Majesty cedes, in full right, and guaranties to the King of Great Britain the river Senegal, with the forts and factories of St. Lewis, Podor, and Galam, and with all the rights and dependencies of the said river Senegal.

XI. In the East Indies Great Britain shall restore to France, in the condition they are now in, the different factories which that Crown possessed, as well as on the coast of Coromandel and Orixa as on that of Malabar, as also in Bengal, at the beginning of the year 1749. And his Most Christian Majesty renounces all pretension to the acquisitions which he has made on the coast of Coromandel and Orixa since the said beginning of the year 1749. His Most Christian Majesty shall restore, on his side, all that he may have conquered from Great Britain in the East Indies during the present war; and will expressly cause Nattal and Tapanoully, in the island of Sumatra, to be restored; he engages farther, not to erect fortifications, or to keep troops in any part of the dominions of the Subah of Bengal. And in order to preserve future peace on the coast of Coromandel and Orixa, the English and French shall acknowledge Mahomet Ally Khan for lawful Nabob of the Carnatick, and Salabat Jing for lawful Subah of the Decan; and both parties shall renounce all demands and pretensions of satisfaction with which they might charge each other, or their Indian allies, for the depredations or pillage committed on the one side or on the other during the war.

XII. The island of Minorca shall be restored to his Britannick Majesty, as well as Fort St. Philip, in the same condition they were in when conquered by the arms of the Most Christian King; and with the artillery which was there when the said island and the said fort were taken.

XIII. The town and port of Dunkirk shall be put into the state fixed by the last treaty of Aix la Chapelle, and by former treaties. The Cunette shall be destroyed immediately after the exchange of the ratifications of the present treaty, as well as the forts and batteries which defend the entrance on the side of the sea; and provision shall be made at the same time for the wholesomeness of the air, and for the health of the inhabitants, by some other means, to the satisfaction of the King of Great Britain.

XIV. France shall restore all the countries belonging to the Electorate of Hanover, to the Landgrave of Hesse, to the Duke of Brunswick, and to the Count of La Lippe Buckebourg, which are or shall be occupied by his Most Christian Majesty's arms: the fortresses of these different countries shall be restored in the same condition they were in when conquered by the French arms; and the pieces of artillery, which shall have been carried elsewhere, shall be replaced by the same number, of the same bore, weight and metal.

XV. In case the stipulations contained in the XIIIth article of the preliminaries should not be compleated at the time of the signature of the present treaty, as well with regard to the evacuations to be made by the armies of France of the fortresses of Cleves, Wezel, Guelders, and of all the countries belonging to the King of Prussia, as with regard to the evacuations to be made by the British and French armies of the countries which they occupy in Westphalia, Lower Saxony, on the Lower Rhine, the Upper Rhine, and in all the empire; and to the retreat of the troops into the dominions of their respective Sovereigns: their Britannick and Most Christian Majesties promise to proceed, *bonâ fide*, with all the dispatch the case will permit of to the said evacuations, the entire completion whereof they stipulate before the 15th of March next, or sooner if it can be done ; and their Britannick and Most Christian Majesties farther engage and promise to each other, not to furnish any succours of any kind to their respective allies who shall continue engaged in the war in Germany.

XVI. The decision of the prizes made in time of peace by the subjects of Great Britain, on the Spaniards, shall be referred to the Courts of Justice of the Admiralty of Great Britain, conformably to the rules established among all nations, so that the validity of the said prizes, between the British and Spanish nations, shall be decided and judged, according to the law of nations, and according to treaties, in the Courts of Justice of the nation who shall have made the capture.

XVII. His Britannick Majesty shall cause to be demolished all the fortifications which his subjects shall have erected in the bay of Honduras, and other places of the territory of Spain in that part of the world, four months after the ratification of the present treaty; and his Catholick Majesty shall not permit his Britannick Majesty's subjects, or their workmen, to be disturbed or molested under any pretence whatsoever in the said places, in their occupation of cutting, loading, and carrying away log-wood; and for this purpose, they may build, without hindrance, and occupy, without interruption, the houses and magazines necessary for them, for their families, and for their effects; and his Catholick Majesty assures to them, by this article, the full enjoyment of those advantages and powers on the Spanish coasts and territories, as above stipulated, immediately after the ratification of the present treaty.

XVIII. His Catholick Majesty desists, as well for himself as for his successors, from all pretension which he may have formed in favour of the Guipuscoans, and other his subjects, to the right of fishing in the neighbourhood of the island of Newfoundland.

XIX. The King of Great Britain shall restore to Spain all the territory which he has conquered in the island of Cuba, with the fortress of the Havannah; and this fortress, as well as all the other fortresses of the said island, shall be restored in the same condition they were in when conquered by his Britannick Majesty's arms, provided that his Britannick Majesty's subjects who shall have settled in the said island, restored to Spain by the

present treaty, or those who shall have any commercial affairs to settle there, shall have liberty to sell their lands and their estates, to settle their affairs, recover their debts, and to bring away their effects, as well as their persons, on board vessels which they shall be permitted to send to the said island restored as above, and which shall serve for that use only, without being restrained on account of their religion, or under any other pretence whatsoever, except that of debts or of criminal prosecutions: And for this purpose, the term of eighteen months is allowed to his Britannick Majesty's subjects, to be computed from the day of the exchange of the ratifications of the present treaty: but as the liberty granted to his Britannick Majesty's subjects, to bring away their persons and their effects, in vessels of their nation, may be liable to abuses if precautions were not taken to prevent them; it has been expressly agreed between his Britannick Majesty and his Catholick Majesty, that the number of English vessels which shall have leave to go to the said island restored to Spain shall be limited, as well as the number of tons of each one; that they shall go in ballast; shall set sail at a fixed time; and shall make one voyage only; all the effects belonging to the English being to be embarked at the same time: it has been farther agreed, that his Catholick Majesty shall cause the necessary passports to be given to the said vessels; that for the greater security, it shall be allowed to place two Spanish clerks or guards in each of the said vessels, which shall be visited in the landing places and ports of the said island restored to Spain, and that the merchandize which shall be found therein shall be confiscated.

XX. In consequence of the restitution stipulated in the preceding article, his Catholick Majesty cedes and guaranties, in full right, to his Britannick Majesty, Florida, with Fort St. Augustin, and the Bay of Pensacola, as well as all that Spain possesses on the continent of North America, to the East or to the South East of the river Mississippi. And, in general, every thing that depends on the said countries and lands, with the sovereignty, property, possession, and all rights, acquired by treaties or otherwise, which the Catholick King and the Crown of Spain have had till now over the said countries, lands, places, and their inhabitants; so that the Catholick King cedes and makes over the whole to the said King and to the Crown of Great Britain, and that in the most ample manner and form. His Britannick Majesty agrees, on his side, to grant to the inhabitants of the countries above ceded, the liberty of the Catholick religion; he will, consequently, give the most express and the most effectual orders that his new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the Spanish inhabitants, or others who had been subjects of the Catholick King in the said countries, may retire, with all safety and freedom, wherever they think proper; and may sell their estates, provided it be to his Britannick Majesty's subjects, and bring away their effects, as well as their persons,

without being restrained in their emigration, under any pretence whatsoever, except that of debts, or of criminal prosecutions: the term limited for this emigration being fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the present treaty. It is moreover stipulated, that his Catholick Majesty shall have power to cause all the effects that may belong to him, to be brought away, whether it be artillery or other things.

XXI. The French and Spanish troops shall evacuate all the territories, lands, towns, places, and castles, of his Most faithful Majesty in Europe, without any reserve, which shall have been conquered by the armies of France and Spain, and shall restore them in the same condition they were in when conquered, with the same artillery and ammunition, which were found there: And with regard to the Portuguese Colonies in America, Africa, or in the East Indies, if any change shall have happened there, all things shall be restored on the same footing they were in, and conformably to the preceding treaties which subsisted between the Courts of France, Spain, and Portugal, before the present war.

XXII. All the papers, letters, documents, and archives, which were found in the countries, territories, towns and places that are restored, and those belonging to the countries ceded, shall be, respectively and *bonâ fide*, delivered, or furnished at the same time, if possible, that possession is taken, or, at latest, four months after the exchange of the ratifications of the present treaty, in whatever places the said papers or documents may be found.

XXIII. All the countries and territories, which may have been conquered, in whatsoever part of the world, by the arms of their Britannick and Most Faithful Majesties, as well as by those of their Most Christian and Catholick Majesties, which are not included in the present treaty, either under the title of cessions, or under the title of restitutions, shall be restored without difficulty, and without requiring any compensations.

XXIV. As it is necessary to assign a fixed epoch for the restitutions and the evacuations, to be made by each of the high contracting parties, it is agreed, that the British and French troops shall compleat, before the 15th of March next, all that shall remain to be executed of the XIIth and XIIIth articles of the preliminaries, signed the 3d day of November last, with regard to the evacuation to be made in the Empire, or elsewhere. The island of Belleisle shall be evacuated six weeks after the exchange of the ratifications of the present treaty, or sooner if it can be done. Guadeloupe, Desirade, Mariegalante Martinico, and St. Lucia, three months after the exchange of the ratifications of the present treaty, or sooner if it can be done. Great Britain shall likewise, at the end of three months after the exchange of the ratifications of the present treaty, or sooner if it can be done, enter into possession of the river and port of the Mobile, and of all that is to form the limits of the territory of Great Britain, on the side of the river Mississippi, as they are specified in the VIIth article. The island

of Goree shall be evacuated by Great Britain, three months after the exchange of the ratifications of the present treaty; and the island of Minorca by France, at the same epoch, or sooner if it can be done: And according to the conditions of the VIth article, France shall likewise enter into possession of the islands of St Peter, and of Miquelon, at the end of three months after the exchange of the ratifications of the present treaty. The Factories in the East Indies shall be restored six months after the exchange of the ratifications of the present treaty, or sooner if it can be done. The fortress of the Havannah, with all that has been conquered in the island of Cuba, shall be restored three months after the exchange of the ratifications of the present treaty, or sooner if it can be done: And, at the same time, Great Britain shall enter into possession of the country ceded by Spain according to the XXth article. All the places and countries of his most Faithful Majesty, in Europe, shall be restored immediately after the exchange of the ratification of the present treaty: And the Portuguese colonies, which may have been conquered, shall be restored in the space of three months in the West Indies, and of six months in the East Indies, after the exchange of the ratifications of the present treaty, or sooner if it can be done. All the fortresses, the restitution whereof is stipulated above, shall be restored with the artillery and ammunition, which were found there at the time of the conquest. In consequence whereof, the necessary orders shall be sent by each of the high contracting parties, with reciprocal passports for the ships that shall carry them, immediately after the exchange of the ratifications of the present treaty.

XXV. His Britannick Majesty, as Elector of Brunswick Lunenbourg, as well for himself as for his heirs and successors, and all the dominions and possessions of his said Majesty in Germany, are included and guarantied by the present treaty of peace.

XXVI. Their sacred Britannick, Most Christian, Catholick, and Most Faithful Majesties, promise to observe sincerely and *bonâ fide*, all the articles contained and settled in the present treaty; and they will not suffer the same to be infringed, directly or indirectly, by their respective subjects; and the said high contracting parties, generally and reciprocally, guaranty to each other all the stipulations of the present treaty.

XXVII. The solemn ratifications of the present treaty, expedited in good and due form, shall be exchanged in this city of Paris, between the high contracting parties, in the space of a month, or sooner if possible, to be computed from the day of the signature of the present treaty.

In witness whereof, we the underwritten their Ambassadors Extraordinary, and Ministers Plenipotentiary, have signed with our hand, in their name, and in virtue of our full powers, have signed the present definitive treaty, and have caused the seal of our arms to be put thereto. Done at Paris the tenth day of February, 1763.

Bedford, C.P.S.	*Choiseul, Duc de Praslin.*	*El Marq. de Grimaldi.*
(L.S.)	(L.S.)	(L.S.)

Separate Articles

I. Some of the titles made use of by the contracting powers, either in the full powers, and other acts, during the course of the negociation, or in the preamble of the present treaty, not being generally acknowledged; it has been agreed, that no prejudice shall ever result therefrom to any of the said contracting parties, and that the titles, taken or omitted on either side, on occasion of the said negociation, and of the present treaty, shall not be cited or quoted as a precedent.

II. It has been agreed and determined, that the French language made use of in all the copies of the present treaty, shall not become an example which may be alledged, or made a precedent of, or prejudice, in any manner, any of the contracting powers; and that they shall conform themselves, for the future, to what has been observed, and ought to be observed, with regard to, and on the part of powers, who are used, and have a right, to give and to receive copies of like treaties in another language than French; the present treaty having still the same force and effect, as if the aforesaid custom had been therein observed.

III. Though the King of Portugal has not signed the present definitive treaty, their Britannick, Most Christian, and Catholick Majesties, acknowledge, nevertheless, that his Most Faithful Majesty is formally included therein as a contracting party, and as if he had expressly signed the said treaty: Consequently, their Britannick, Most Christian, and Catholick Majesties, respectively and conjointly, promise to his Most Faithful Majesty, in the most express and most binding manner, the execution of all and every the clauses, contained in the said treaty, on his act of accession.

The present Separate Articles shall have the same force as if they were inserted in the treaty.

In witness whereof, We the under-written Ambassadors Extraordinary, and Ministers Plenipotentiary of their Britannick, Most Christian and Catholick Majesties, have signed the present separate Articles, and have caused the seal of our arms to be put thereto.

Done at Paris, the 10th of February, 1763.

Bedford, C.P.S.	*Choiseul, Duc*	*El Marq. de*
(L.S.)	*de Praslin.*	*Grimaldi.*
	(L.S.)	(L.S.)

His Britannick Majesty's full Power.

GEORGE R.

George the Third, by the grace of God, King of Great Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Lunenbourg, Arch-Treasurer, and Prince Elector of the Holy Roman Empire, &c. To all and singular to whom these presents shall come, greeting. Whereas, in order to perfect the peace between Us and our good Brother the Most Faithful King, on the one part, and our good Brothers the Most Christian

and Catholick Kings, on the other, which has been happily begun by the Preliminary Articles already signed at Fontainebleau the third of this month; and to bring the same to the desired end, We have thought proper to invest some fit person with full authority, on our part; Know ye, that We, having most entire confidence in the fidelity, judgment, skill, and ability in managing affairs of the greatest consequence, of our right trusty, and right entirely beloved Cousin and Counsellor, John Duke and Earl of Bedford, Marquis of Tavistock, Baron Russel of Cheneys, Baron Russel of Thornhaugh, and Baron Howland of Streatham, Lieutenant-general of our forces, Keeper of our Privy Seal, Lieutenant and Custos Rotulorum of the counties of Bedford and Devon, Knight of our most noble order of the Garter, and our Ambassador Extraordinary and Plenipotentiary to our good Brother the Most Christian King, have nominated, made, constituted and appointed, as by these presents, we do nominate, make, constitute, and appoint him, our true, certain, and undoubted Minister, Commissary, Deputy, Procurator and Plenipotentiary, giving to him all and all manner of power, faculty and authority, as well as our general and special command (yet so as that the general do not derogate from the special, or on the contrary) for Us and in our name, to meet and confer, as well singly and separately, as jointly, and in a body, with the Ambassadors, Commissaries, Deputies, and Plenipotentiaries of the Princes, whom it may concern, vested with sufficient power and authority for that purpose, and with them to agree upon, treat, consult and conclude, concerning the re-establishing, as soon as may be, a firm and lasting peace, and sincere friendship and concord; and whatever shall be so agreed and concluded, for Us and in our name, to sign, and to make a treaty or treaties, on what shall have been so agreed and concluded, and to transact every thing else that may belong to the happy completion of the aforesaid work, in as ample a manner and form, and with the same force and effect, as We ourselves, if we were present, could do and perform; engaging and promising, on our royal word, that We will approve, ratify and accept, in the best manner, whatever shall happen to be transacted and concluded by our said Plenipotentiary, and that We will never suffer any person to infringe or act contrary to the same, either in the whole or in part. In witness and confirmation whereof We have caused our great Seal of Great Britain to be affixed to these presents, signed with our royal hand. Given at our Palace at St. James's, the 12th day of November, 1762, in the third year of our reign.

His Most Christian Majesty's Full Power.

Lewis, by the grace of God, King of France and Navarre, To all who shall see these presents, Greeting. Whereas the Preliminaries, signed at Fontainebleau the third of November of the last year, laid the foundation of the peace re-established between us and our most dear and most beloved good Brother and Cousin the King of Spain, on the one part, and

our most dear and most beloved good Brother the King of Great Britain, and our most dear and most beloved good Brother and Cousin the King of Portugal on the other, We have had nothing more at heart since that happy epoch, than to consolidate and strengthen in the most lasting manner, so salutary and so important a work, by a solemn and definitive treaty between Us and the said powers. For these causes, and other good considerations, Us thereunto moving, We, trusting entirely in the capacity and experience, zeal and fidelity for our service, of our most dear and well-beloved Cousin, Cæsar Gabriel de Choiseul, Duke of Praslin, Peer of France, Knight of our Orders, Lieutenant General of our Forces and of the province of Britany, Counsellor in all our Councils, Minister and Secretary of State, and of our Commands and Finances, We have named, appointed, and deputed him, and by these presents, signed with our hand, do name, appoint, and depute him our Minister Plenipotentiary, giving him full and absolute power to act in that quality, and to confer, negociate, treat and agree jointly with the Minister Plenipotentiary of our most dear and most beloved good Brother the King of Great Britain, the Minister Plenipotentiary of our most dear and most beloved good Brother and Cousin the King of Spain and the Minister Plenipotentiary of our most dear and most beloved good Brother and Cousin the King of Portugal, vested with full powers, in good form, to agree, conclude and sign such articles, conditions, conventions, declarations, definitive treaty, accessions, and other acts whatsoever, that he shall judge proper for securing and strengthening the great work of peace, the whole with the same latitude and authority that We ourselves might do, if We were there in person, even though there should be something which might require a more special order than what is contained in these presents, promising on the faith and word of a King, to approve, keep firm and stable for ever, to fulfil and execute punctually, all that our said Cousin, the Duke of Praslin, shall have stipulated, promised and signed, in virtue of the present full power, without ever acting contrary thereto, or permitting any thing contrary thereto, for any cause, or under any pretence whatsoever, as also to cause our letters of ratification to be expedited in good form, and to cause them to be delivered, in order to be exchanged within the time that shall be agreed upon. For such is our pleasure. In witness whereof, we have caused our Seal to be put to these presents. Given at Versailles the 7th day of the month of February, in the year of Grace 1763, and of our reign the forty-eighth. Signed Lewis, and on the fold, by the King, the Duke of Choiseul. Sealed with the great Seal of yellow Wax.

His Catholick Majesty's full Power.

Don Carlos, by the grace of God, King of Castille, of Leon, of Arragon, of the two Sicilies, of Jerusalem, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Seville, of Sardinia, of Cordova, of Corsica, of Murcia, of Jaen, of the Algarves, of Algecira, of Gibraltar, of

the Canary Islands, of the East and West Indies, Islands and Continent, of the Ocean, Arch Duke of Austria, Duke of Burgundy, of Brabant and Milan, Count of Hapsburg, of Flanders, of Tirol and Barcelona, Lord of Biscay and of Molino, &c. Whereas preliminaries of a solid and lasting peace between this Crown, and that of France on the one part, and that of England and Portugal on the other, were concluded and signed in the Royal Residence of Fontainbleau, the 3rd of November of the present year, and the respective ratifications thereof exchanged on the 22d of the same month, by Ministers authorised for that purpose, wherein it is promised, that a definitive treaty should be forthwith entered upon, having established and regulated the chief points upon which it is to turn: and whereas in the same manner as I granted to you, Don Jerome Grimaldi, Marquis de Grimaldi, Knight of the Order of the Holy Ghost, Gentleman of my Bed-chamber with employment, and my Ambassador Extraordinary to the Most Christian King, my full power to treat, adjust, and sign the before-mentioned preliminaries, it is necessary to grant the same to you, or to some other, to treat, adjust, and sign the promised definitive treaty of peace as aforesaid: therefore, as you the said Don Jerome Grimaldi, Marquis de Grimaldi, are at the convenient place, and as I have every day fresh motives, from your approved fidelity and zeal, capacity and prudence, to entrust to you this, and other-like concerns of my Crown, I have appointed you my Minister Plenipotentiary, and granted to you my full power, to the end, that, in my name, and representing my person, you may treat, regulate, settle, and sign the said definitive treaty of peace between my Crown and that of France on the one part, that of England and that of Portugal on the other, with the Ministers who shall be equally and specially authorised by their respective Sovereigns for the same purpose; acknowledging, as I do from this time acknowledge, as accepted and ratified, whatever you shall so treat, conclude, and sign; promising, on my Royal Word, that I will observe and fulfil the same, will cause it to be observed and fulfilled, as if it had been treated, concluded, and signed by myself. In witness whereof, I have caused these presents to be dispatched, signed by my hand, sealed with my privy seal, and countersigned by my under-written Counsellor of State, and first Secretary for the department of State and of War. Buen Retiro, the 10th day of December, 1762.

(Signed) I THE KING.
(And lower) *Richard Wall*

SESSIONAL PAPER No. 18

PAPERS RELATING TO THE ESTABLISHMENT OF CIVIL GOVERNMENT IN THE TERRITORIES CEDED TO BRITAIN BY THE TREATY OF 1763.[1]

(Egremont to Lords of Trade.)

WHITEHALL May 5th 1763.

Lords of Trade

MY LORDS

His Majesty having brought the Negotiation with France & Spain to a happy Conclusion, and having given the necessary Orders for carrying into Execution the several Stipulations of the late Treaty, is now pleased to fix His Royal Attention upon the next important Object of securing to His Subjects, and extending the Enjoyment of the Advantages, which Peace has procured.

His Majesty therefore, upon the same Principle of Sollicitude for the Interests of His Colonies, which engaged him in a just & necessary War, in support of their Rights, and obliged him to insist on such Terms of Peace as he thought peculiarly calculated for the future Security of that important Object, directs me to transmit to Your Lordships herewith the Definitive Treaty of Peace; and I am commanded to signify to Your Lordships His Majesty's Pleasure, that You do, without Loss of Time, take into Your most serious Consideration, those Articles which relate to the Cessions made by their Most Christian & Catholick Majesties, & that You do report Your Opinion.

By what Regulations, the most extensive Commercial Advantages may be derived from those Cessions, and

How those Advantages may be rendered most permanent & secure to His Majesty's Trading Subjects.

The Means of arriving at these desireable Ends, will perhaps be most distinctly pointed out, by considering, separately, the several Cessions stipulated by the Articles of Peace and examining the different Circumstances by which each Cession becomes more or less susceptible of the great Advantages of Commerce & Security above mentioned.

North America naturally offers itself as the principal Object of Your Lordships Consideration upon this Occasion, with regard to which, I shall first obey His Majesty's Commands in proposing to Your Lordships some general Questions, before

[1] This and the following papers contain an account of the steps taken by the British Government to provide a suitable constitution and policy of administration for Canada and the other recently acquired territories in North America. They furnish the basis for the Proclamation of Oct. 7th, 1763, as also for the Commission and the Instructions of the same date, given to General James Murray as Governor of the Province of Quebec. The papers are copied from the originals in the Public Record Office, and are, except where noted, from the series "America and the West Indies." The first is from vol. 268, p. 93.

I proceed to desire You will furnish that Information, which His Majesty expects from Your Lordships, with regard to the Northern or Southern Parts of this Continent considered separately.

The Questions which relates to North America in general, are,

1st What New Governments should be established & what Form should be adopted for such new Governments? and where the Capital, or Residence of each Governor should be fixed?

2dly What Military Establishmt will be sufficient? What new Forts should be erected? and which, if any, may it be expedient to demolish?

Murray's report said to be inclosed in letter of 20th. July 1762. Amherst to Egremont in A & W. I. Vol. 97 but apparently missing.

3dly In what Mode least Burthensome and most palatable to the Colonies can they contribute towards the Support of the Additional Expence, which must attend their Civil & Military Establishment, upon the Arrangement which Your Lordships shall propose?

Under the first of those Heads, Vizt What new Governments shall be established? It will be proper to examine, what Priviledges are reserved to His Majesty's New Subjects by the Terms of their Capitulations; I therefore send Your Lordships herewith the Capitulation of Quebec & Montreal.

Burton's April 26. 1762. In Amherst's letter to Egremont 15 June 1762 enclosure No. 20 A & W. I, Vol. 97.

It may also be a proper Object of Consideration, how far it is expedient to retain, or depart from the Forms of Government which His Most Christian Majesty had established in those Colonies; and in order to furnish Your Lordships with those Lights, which may enable You to form a just Opinion on this Head, I send herewith Copies of the several Reports of Govrs Murray Burton & Gage.

Gage's—Enclosure No. 38 March 20, 1762 in Amherst's to Egremont of 12 May, 1762 A. & W. I. Vol. 97.

The Second Question, which relates to the Security of North America, seems to include Two Objects to be provided for; The first is, the Security of the whole against any European Power; The next is the Preservation of the internal Peace & Tranquility of the Country against any Indian Disturbances. Of those Two Objects, the latter appears to call more immediately for such Regulations & Precautions as Your Lordships shall think proper to suggest &ca.

Tho' in order to succeed effectually in this Point, it may become necessary to erect some Forts in the Indian Country, with their Consent, yet His Majesty's Justice & Moderation inclines Him to adopt the more eligible Method of conciliating the Minds of the Indians by the Mildness of His Government, by protecting their Persons & Property & securing to them all the Possessions, Rights and Priviledges they have hitherto enjoyed, & are entitled to, most cautiously guarding against any Invasion or Occupation of their Hunting Lands, the Posses-

sion of which is to be acquired by fair Purchase only; and it has been thought so highly expedient to give them the earliest and most convincing Proofs of His Majesty's Gracious and Friendly Intentions on this Head, that I have already received and transmitted the King's Commands to this Purpose to the Governors of Virginia, the Two Carolinas & Georgia, and to the Agent for Indian Affairs in the Southern Department, as Your Lordships will see fully in the inclosed Copy of my Circular Letter to them on this Subject.

Having thus executed the King's Commands, with regard to such Questions as relate to North America in general, I am to signify to Your Lordships His Majesty's further Pleasure that You do take into Consideration the following Queries, which concern some parts of that Continent in particular.

Canada & Newfoundland.

The first and most important Object is the Fishery, with regard to which Your Lordships will furnish all the Lights you possibly can in order to shew,—

Whether the French had made any Incroachments with regard to the Fishery, contrary to what is stipulated, on this Head by the Treaty of Utrecht?

How those Incroachments may be most easily prevented by such timely Precautions, as may most effectually obviate all Disputes between the Subjects of both Crowns, in those Parts & preserve Peace & Tranquility there for the future.

What Inconvenience or Disadvantage may arise to His Majesty's Northern Colonies, or to the Fishery in those Parts, from the Vicinity of S^{t} Pierre & Michelon, ceded to France, under certain Restrictions by the 6th Article of the Definitive Treaty? And by what Precautions may that Inconvenience be most effectually guarded against, either with respect to Our Fishery, or a Contraband Trade with Our Colonies.

Florida.

Can Your Lordships furnish any Lights with regard to the Climate or Soil of the Inland Parts of Florida, which tho' hitherto neglected and useless, are said to be extremely fertile?

Is there any Reason to believe that the Mouth of the Catahocke River is, or might be easily made Commodious for Shipping, or, that a Harbour may be found in the Southern Parts of the Peninsula of Florida? What particular Advantages might arise from such a Harbour, or from that of Pensacola or Mobile, or from any other, on that part of the Coast of North America lately ceded to His Majesty, which bounds the Gulph of Mexico to the North.

The general Queries with regard to North America, having taken in all the Points of Information wanted, relative to the Louisiana & the Illinois, I shall only add, that His Majesty

desires to have Your Lordships Opinion whether any immediate Advantages may be derived from the free Navigation of the Mississippi, and how they are to be improved & extended?

Having thus gone thro' the several Points relative to N. America, upon which His Majesty desires to have the Opinion of Your Lordships, the obvious Application of most of the same Queries to the other Cessions made to His Majesty by the Peace, makes it unnecessary to repeat them, it will be sufficient therefore to desire that Your Lordships will report for His Majesty's Information, Your Opinion, with regard to the most effectual Means of improving and securing the Commercial Advantages, which may be derived from the Conquered Islands and from Senegal. With regard to the latter I am to inform Your Lordships, that His Majesty has thought proper to accept the Proposal of the African Committee made in the Petition of which I send You Copy inclosed, and Orders are already given to the Governor of Senegal to have a Detachment under a proper Officer to keep Possession of that Place till the African Committee shall be prepared to take Possession thereof. Your Lordships will report Your Opinion of this Arrangement, and suggest whatever may occur to You for the Advantage of this Part of the African Trade.

In Order to supply Your Lordships with all the Materials in my Office, which can in any Shape assist You, in making Your Report as ample, and as satisfactory as possible, I inclose herewith Copies of Accounts transmitted by the King's Command from Colonels Scott & Worge, as also the Capitulation of Martinico, Grenade having surrendered under the same Terms, which had been granted to that Island.

As it must require some time to examine & deliberate upon the several Points which are referred to Your Lordships in this Letter, it is the King's Pleasure, that without waiting to make a full Answer to the whole You do, as soon as possible, report your Opinion upon such Points as shall appear to you most pressing that proper Directions may be given, without Loss of Time, with regard to the Arrangements immediately necessary for the New Acquisitions.

I am &c.

EGREMONT[1]

[1] Charles, Earl of Egremont succeeded Wm. Pitt as Secretary of State for the Southern Department, Oct. 9th, 1761. At this time there were two Principal Secretaries of State, one for the "Northern" and the other for the "Southern" Department, these distinctions referring to the division between them of British foreign affairs in Europe. The American Colonies came under the attention of the senior secretary, being usually the secretary for the Southern Department. In Jan. 1768, a third Secretary of State was appointed to take charge of Colonial affairs; but, with the virtual loss of the American Colonies, this office was abolished in 1782. Thereafter a new division was made into the Home and Foreign Departments. The colonies came under the care of the former department until 1801, when they were transferred to that of the Secretary for War, a new department established in 1794. From 1801 to 1854 this department was known as that of the Secretary of State for War and the Colonies.

endorsed: Dra[t] to the Lords of the Trade
May 5[th] 1763

Letter of Reference concerning the Advantages procured by the Treaty of Peace,—the Regulations proper to be made relating to the Indians & the Establishment of New Governments in the ceded Provinces & Islands—Directing them to point out the necessary Arrangements.—

with an Inclosure

A

N° 7.—

Enclosure in letter of 5 May 1763—[1]

Definitive Treaty
Capitulation of Quebec. in B. Gen[l] Townshend's Sept. 20. 1759
Capitulation of Montreal. in Gen[l] Amherst's of Sep[r] 8. 1760.
Gov[r] Murray's Report. Quebec June 5. 1762 } transmitted
Gov[r] Burton's Report. Trois Rivieres Apr. 1762 } by S[r] Jeff.
Gen[l] Gage's Report. Montreal. March 20. 1762 } Amherst.
Capitulation of Martinico. in Gen[l] Monckton's of Feb. 9. & 27. 1762
Gov[r] Scott's Letter. Grenada. July 7. 1762
Gov[r] Scott's Report. Grenada. Jan[y] 19. 1763.
Gov[r] Worge's Report. Senegal Jan[y] 11. 1762.
Mem[l] of Committee of Merchants trading to Africa, & Estimate
Circular, March 16., to Gov[rs] of Virginia, Two Carolinas, & Georgia, & Agent for S° District of Indians.
endorsed: List of Papers sent to Board of Trade—May 5: 1763.

Inclosure in N° 7—

A

Lords of Trade to Egremont, with Report:

WHITEHALL June 8. 1763.

MY LORD,—Having, in Obedience to His Majesty's Commands, signified to Us by your Lordship's Letter of the 5[th] of May last, prepared Our Representation upon such of the Points, thereby referr'd to Our Consideration, as appear to Us the most pressing, We beg leave to inclose Our said Repre-

[1] The enclosures mentioned in this list are not found with the letter of 5th May; but those relating to Canada are already given in this volume.

sentation to your Lordship, & desire you will be pleased to lay it before His Majesty.

We are
My Lord,
Your Lordship's
most Obedient and
most humble Servants
SHELBURNE
SOAME JENYNS
ED: ELIOT
Ed BACON
JOHN YORKE
GEO: RICE
ORWELL
BAMBER GASCOYNE

Earl of Egremont, One of His Majesty's Principal Secretaries of State

endorsed: June 8th 1763
Lords of Trade
To the Earl of Egremont
with an Inclosure
(Report on Acquisitions in America)
A N° 8.

Enclosure in letter from the Lords of Trade to Egremont, 8th June 1763.

N° 12

L.S.

To the King's most Excellent Majesty

MAY IT PLEASE YOUR MAJESTY,

Having received Your Majesty's Commands, signified to Us by a Letter from the Earl of Egremont, dated May 5th 1763, to take into Consideration, without loss of Time, those Articles of the late Definitive Treaty of Peace, which relate to the Cessions made by France and Spain, and to report Our Opinion by what Regulations the most extensive Advantages may be derived from them, and those Advantages rendered most permanent and secure to Your Majesty's trading Subjects; And Your Majesty having further directed Us with regard to North America in general, to point out, what new Governments it may be necessary to establish, with the Form most proper for such Governments, and the Places most convenient for the

Capitals; What Military Establishments will be sufficient for that Country; What new Forts it may be proper to erect, and what (if any) to demolish; And by what Mode of Revenue, least burthensome and most palatable, the Colonies can contribute to the Additional Expence of such Civil and Military Establishments: And Your Majesty having commanded that, particularly As to Canada and Newfoundland, after furnishing every Information in our Power relating to the Fishery, We should consider the Encroachments made by the French in this Article, contrary to the Stipulations in the Treaty of Utrecht, and give our Opinion by what Means such Encroachments may be prevented in future, and any Inconvenience which may arise from the Vicinity of S^{t} Pierre and Micquelon, may be most effectually guarded against.—That in respect to Florida, We should report upon it's Produce, the Situation of it's Harbours, and Rivers, with the Benefits which may arise from the free Navigation of the River Mississippi;—That in regard to the Islands conquered in the West Indies, and Senegal on the Coast of Africa, We should state the means which appear to Us most effectual for securing and improving the Commercial Advantages which may be derived from them;—But that upon the whole, it was Your Majesty's Pleasure (as some Time would be required to examine and deliberate on the several Points referred to Us) that We should, as soon as possible, report to Your Majesty Our Opinions on such of them as appear to Us most pressing, in order that Directions may be given without loss of Time:

In Obedience to Your Majesty's Commands, We have taken the several Points referred to Us into our most serious Consideration, and are of Opinion that We shall best comply with Your Majesty's Intention and Directions by stating particularly the Advantages which severally result to Your Majesty's Colonies and the Commerce of Your Subjects by the Cessions stipulated in the late Treaty, and then submitting Our humble Opinion to Your Majesty of the Means, which appear to Us immediately necessary to be put in Execution for securing and improving those Advantages.

Many of the particular Questions contained in the Reference will receive a particular Answer under one or other of those general Heads, and such as do not, We shall beg Leave, in Obedience to Your Majesty's Direction, to reserve for a future Report, when We may be better enabled to give Your Majesty Information upon such Points.

The most obvious Advantages arising from the Cessions made by the Definitive Treaty are, The exclusive Fishery of the River S^{t} Laurence on all the Coasts in the Gulph of S^{t} Laurence

and all the Islands in that Gulph. From all these Fisheries Your Majesty's Subjects were hitherto entirely excluded; partly by the express Stipulations of the Treaty of Utrecht by which Cape Breton, S^{t} Johns and the other Islands in the Gulph were dismember'd from Nova Scotia and ceded to France, partly by the Claim immediately set up by France to the whole Southern Shore of the Gulph under pretence that it had never made a part of Nova Scotia, but had always been considered as a seperate District of New France. In consequence of this Claim and of the Possession instantly taken of that Territory by the French, which till the late War they were permitted to retain, they established their most Valuable Fisheries in the different and most convenient Bays of that Country, as well in respect to Catching and Curing of Fish and fitting out Boats, Shallops and other Vessels, as to raising Provisions at the cheapest Rates. From all these Circumstances this Fishery upon the Coasts of the Gulph and of the Islands in the Gulph of S^{t} Laurence, well known by the Name of La Peche Sedentaire, has ever since been deemed one of the most valuable parts of the French Fishery and We have reason to conclude from the Spirit and Industry which Your Majesty's Subjects have shewn ever since the Reduction of Louisbourg that it will become equally valuable in their Hands, especially when We consider that, the Fishery of the River S^{t} Laurence consisting of Whales, Seals, Sea-Cows &ca has been in the short Period since the taking of Quebec, carried to a much greater Extent by your Majesty's Subjects, than ever it was by the French, during their Possession of Canada.

This Claim, and the Possession in consequence of it, of the whole Southern Coast of the Gulph of S^{t} Laurence, from the Streights of Canceau to Cape Roziere, at the Mouth of the River, appears to Us to have been the chief Encroachment made by the French in Violation of the Stipulations in the Treaty of Utrecht; But the Monopoly of the Fishery which they endeavoured to establish upon this Encroachment was greatly strengthened by other Circumstances. By suffering the whole of Nova Scotia (the Fort of Annapolis excepted) to remain entirely in the Possession of French Inhabitants from the Treaty of Utrecht to the Year 1749, Your Majesty's Subjects were discouraged and prevented from availing themselves of the advantageous and abundant Fishery which might have been carried on upon that part of the Coast of Nova Scotia expressly and exclusively reserved to them in the Treaty of Utrecht, for the french constantly excited the Indians to disturb the Fishermen that resorted thither; And by their Possession of the whole Coast of Labrador, they not only carried on an extensive Trade

with the Esquimeaux Indians in Oyl, Furs &ca. (in which they allowed Your Majesty's Subjects no Share) but by the Vicinity of the Eastern Part of that Coast, to that part of Newfoundland, (where a permissive Right of drying their Fish, only during the Fishery Season was granted by the Treaty of Utrecht) They assumed in some Measure an Exclusive Right to the Navigation in the Streights of Bellisle.

These several Encroachments, will, We apprehend, entirely cease, on the one Hand, by the compleat Settlement of Your Majesty's Colony of Nova Scotia, according to it's true and ancient Boundaries, and on the other by the Annexation of the Labrador Coast to the Government of Newfoundland, and by the faithfull Execution of those Instructions, which Your Majesty has been pleased to give to Your Governor of that Island. With respect to the Islands of S^{t} Pierre and Miquelon, We do not apprehend that any great Advantages can result to the French Fishery, or great Inconvenience to that of Your Majesty's Subjects by the Possession of them according to the Terms of the Treaty; We do not imagine they are fitted to restore or revive that Branch which the French call La Peche Sedentaire, and of which they have been deprived by the Cessions, not only as these Islands are without Wood, either for Firing or for any sort of Naval Construction, but as they are utterly incapable of producing Provision sufficient for the Consumption of any considerable Number of Inhabitants. And as to any Conveniences of Drying and Curing such Fish upon those Islands, as may be caught upon the Banks of Newfoundland during the Banking Season, It appears, by what Information We have had, that the best Fish so caught may be earlier and more conveniently dryed upon that part of Newfoundland, where a permissive Right for so doing during the Season was granted as well by the Treaty of Utrecht, as by the late Treaty. It seems, therefore, only to remain, that proper Precautions be taken against any Contraband Trade, which may be carried on from those Islands by any of the Ships of Your Majesty's Subjects trading thither or otherwise. To prevent which Your Majesty's Governor of Newfoundland should be instructed to employ the utmost Vigilance with regard to all such Trade during his Continuance upon the Station, and to give express Directions to the Officers of the Garrisons and the Magistrates in their several Departments that in his Absence they should have the utmost Attention to this Object, and to put the Laws against contraband Trade into strict Execution, for which purpose it will be necessary to establish in that Government a Court of

Vice Admiralty or some other Jurisdiction competent to the Cognizance and Punishment of Breaches of the Acts of Trade.

The next obvious Benefit acquired by the Cessions made to your Majesty is the Fur & Skin Trade of all the Indians in North America. The first of these Articles before the present Cession, was enjoyed by the French almost entirely; The only part left in the Hands of Your Majesty's Subjects, being that carried on by the Exclusive Company of Hudson's Bay, and a very inconsiderable Quantity through the Province of New York. This Trade was acquired in virtue of the Possession which they had taken (contrary to the Stipulations of the Treaty of Utrecht) of all the Lakes in North America, communicating with the River S^{t} Laurence, tho' the circumjacent Territory avowedly belonged to the six Nations of Indians, Acknowledged by the French to be Your Majesty's Subjects in that Treaty, and by virtue of the Claim which they afterwards set up and were suffered to maintain for a long time of forcibly excluding Your Majesty's Subjects from any Navigation in those Lakes. But this Trade which the French with the utmost Industry had carried to the greatest Extent, by means of numerous well chosen Posts and Forts sufficient, as well to overawe as to supply all the Indians upon that immense Continent, is now fallen intirely and exclusively into the Hands of Your Majesty's Subjects and may be secured and communicated to all Your Majesty's Colonies according to the Industry of each, by means of those Posts and Forts with proper Regulations for the Trade with the Indians, under the Protection of such a Military Force as may preserve their Tranquility, not only against Indian Incursions but be ready for their Defence against any European Attack.—The Skin Trade was Chiefly in the Hands of Your Majesty's Subjects in the Southern Colonies even previous to the Cessions, but was often disturbed and interrupted by the frequent Incursions of Indians incited by the French—As these Circumstances no longer exist, a great Extension and Improvement of that Article may likewise be expected.

Another obvious Advantage of the Cession, will be the supplying of all the Indian Tribes upon the Continent of North America with European Commodities immediately through the Hands of English Traders.—This Article, if not wholly engrossed by the French, was possessed by them in the greatest Degree, and was of so much Importance that the Traders of New York chose rather to supply the Inhabitants of Canada with English Goods and Manufactures fit for the Indian Trade, than to risque the Loss of what they esteemed so valuable a Branch, by attempting a direct Trade with the Indians themselves. And

this strange Principle was adopted by many of the Merchants of London, as appeared upon a Hearing on that Subject before Your Majesty's Board of Trade in 1721.

Another Advantage attending the late Treaty is the secure settling of the whole Coast of North America, as it's produce may invite, or Convenience for Settlement may offer, from the Mouth of the Mississippi to the Boundaries of the Hudson's Bay Settlements, with the whole Variety of Produce which is capable of being raised in that immense Tract of Sea Coast, either by the Industry of Emigrants from Europe, or from the Overflowing of Your Majesty's ancient Colonies—previous to the late War, Nothing is more certain than that many of Your Majesty's ancient Colonies appeared to be overstock'd with Inhabitants, occasioned partly from an extremely increasing Population in some of those Colonies, whose Boundaries had become too narrow for their Numbers, but chiefly by the Monopoly of Lands in the Hands of Land Jobbers from the extravagant and injudicious Grants made by some of Your Majesty's Governors, whereby a great many of Your Majesty's industrious Subjects were either forced into Manufactures, being excluded from planting by the high Price of Land (A Situation which they otherwise would have preferr'd) or forced to emigrate to the other Side of the Mountains, where they were exposed to the Irruptions of the Indians as well as the Hostilities of the French. And though, on the one Hand, Your Majesty's Province of Nova Scotia according to it's true and just Boundaries, and on the other, that of Georgia, would have contained many more of Your Majesty's Subjects than were in this disagreable Situation, and more advantageously for the Trade and Interest of Your Kingdoms, Yet the Hostilities which the French contrived to excite at first, by the Indians in their Alliance, and at last by regular Troops in Nova Scotia, and a Dread of the like Calamities on the Side of Georgia from the Indians and Spaniards, have hitherto prevented the salutary progress of these new Settlements, and the happy Consequences which otherwise might have been expected from them.

We have already mentioned the great Scope and Room which there is for beneficial Settlements in the Article of Fishery in Nova Scotia, another great Advantage however of the late Treaty, producing Strength to Your Kingdom and Riches to Your Subjects, is the future Supply which the new Acquisitions will afford of Naval Stores, more particularly that of masting for the Royal Navy, and of that Species of Timber and Wood commonly called Lumber, so essential to the Commerce and Cultivation of the Sugar Colonies, both which Articles are to

be found in great Quantities, and with peculiar Advantage and Convenience in the Province of Canada, upon Lake Champlain, and in those Parts of Nova Scotia, the exclusive Possession of which is now confirmed to Your Majesty, and this Benefit arising from the Treaty is of the greatest Consideration, as the Supply of Masting and Stores for the Royal Navy from America had been almost entirely stop'd by bad Management and Waste committed in Your Majesty's Woods in New England and New York and the Price of Lumber had been greatly enhanced from the Necessity of procuring it at a greater Distance from the Ocean, and from convenient Ports of Shipping.

In the Province of Georgia and the Neighbouring Florida Commercial Advantages of a still more valuable Nature will probably follow the secure Extension of Settlement, which will be attained by the Cession of Florida, and the End which will be thereby put to Interruptions from the Indians. For there can be no Doubt, that Indigo, Silk, Cotton, and many of the Commodities now found in the West Indies only, may be raised in these Climates. An Object which will prove a strong Temptation to the Settlement of those Territories.

A capital Advantage highly deserving Your Majesty's Attention is the Increase of the Trade of Sugar, Coffee, Cotton and other Indian Products by the speedy Settlement and Culture of the new acquired Islands.—It is a known Truth, that the Produce of our West India Islands has hitherto been but barely sufficient to answer our growing Consumption in the first of these valuable Articles, and that as these Islands were all, excepting Jamaica, intirely cultivated, additional Territory was therefore become absolutely necessary to this Branch of Trade, which may be extended to a very great Degree if those new Islands are speedily settled.

The last advantageous Consequence arising from the Cessions which We shall now lay before Your Majesty is that of securing the whole Gum Trade on the Coast of Africa from a Monopoly in the Hands of the French by means of the River Senegal as well as the Acquisition of a considerable Share of the Slave Trade formerly in their hands, with a Variety of other Articles which there is great reason to believe may be obtained by the prosecution of further Discoveries on that River.

Having thus stated the most obvious Advantages resulting from the Cession made to Your Majesty by the late definitive Treaty, We submit to Your Majesty, as Our humble Opinion, that they can only be secured and improved by an immediate Establishment of regular Governments, in all such Places, where planting and Settlement, as well as Trade and Commerce

are the immediate Objects. For in order to invite new Settlers to risque their persons and Property in taking up new Lands, as well as to secure the old Inhabitants in the Enjoyment of those Rights and Priviledges reserved to them by the Treaty, such regular Government appears, both from Reason and Experience, of absolute Necessity. And it seems likewise necessary for the same reasons, as well as to secure Your Majesty's Sovereignty and the Publick Tranquillity, that a large Military force should be kept up in each Government, 'till by the increase of Inhabitants, each Colony shall be enabled to maintain their own Governments by their own internal Force. But as no such regular civil Government is either necessary or indeed can be established, where no perpetual Residence or planting is intended; It will there be sufficient to provide for the free Trade of all Your Majesty's Subjects under such Regulations, and such Administration of Justice as is best suited to that End. Such We apprehend to be the case of Newfoundland, where a temporary Fishery is the only Object, and this We suppose has been the reason, which induced Your Majesty to annex the Coast of Labrador to that Government: Such is the case of Senegal and the Principle upon which we suppose Your Majesty thought proper to put that River and Country under the Administration of the African Committee. And such we apprehend will be the Case of that Territory in North America which in Your Majesty's Justice and Humanity as well as sound Policy is proposed to be left, under Your Majesty's immediate Protection, to the Indian Tribes for their hunting Grounds; where no Settlement by planting is intended, immediately at least, to be attempted; and consequently where no particular form of Civil Government can be established. In such Territory we should propose, that a free Trade with the Indian Tribes should be granted to all Your Majesty's Colonies and Subjects under such Regulations as shall be judged most proper for that End, and under the protection of such Military Force, to be kept up in the different Posts & Forts in the Indian Country as may be judged necessary, as well for the Protection of Trade and the good Treatment of the Indians as the Maintenance of Your Majesty's Sovereignty and the general defence of North America.

We shall defer at present entering into any particulars, as to the number of Troops which it may be necessary to maintain for this purpose, The Number and Situation of the Posts and Forts, and the Regulations proper to be established for a free Trade from all Your Majesty's Colonies into the Indian Country; 'till by further Information from Your Majesty's Commander in Chief of America, and from Your Majesty's

Agents for Indian Affairs. We shall be enabled to make a more full and particular Report upon so interesting and important a Subject. And We apprehend that no such Delay can be attended with very material Inconvenience, since, if Your Majesty shall be pleased to adopt the general proposition of leaving a large Tract of Country round the great Lakes as an Indian Country, open to Trade, but not to Grants and Settlements, the Limits of such Territory will be sufficiently ascertained by the Bounds to be given to the Governors of Canada and Florida on the North and South, and the Mississippi on the West; and by the strict Directions to be given to Your Majesty's several Governors of Your ancient Colonies for preventing their making any new Grants of Lands beyond certain fixed Limits to be laid down in the Instructions for that purpose. And We apprehend that in the mean time the Security of this Trade will be sufficiently provided for by the Forts already erected, and such Garrisons as Your Commander in Chief may, at his Discretion, think proper to keep in them.

But that no time may be lost in finally settling this important point of the Indian Country, it will be absolutely necessary that immediate Orders be sent as well to Your Majesty's Commander in Chief of America as to Your Agents for Indian Affairs, that without delay they furnish every Information in their power on this Subject, and that they be directed to correspond directly with Your Majesty's Board of Trade for this purpose.

Canada, Florida and the new acquired Islands in the West Indies appear to Us to be the Places where Planting, perpetual Settlement and Cultivation ought to be encouraged and consequently where regular Forms of Government must immediately be established.

Canada as possessed and claimed by the French consisted of an immense Tract of Country including as well the whole Lands to the westward indefinitely which was the Subject of their Indian Trade, as all that Country from the Southern Bank of the River S^{t} Lawrence where they carried on their Encroachments.

It is needless to state with any degree of precision the Bounds and Limits of this extensive Country, for We should humbly propose to Your Majesty that the new Government of Canada should be restricted, so as to leave on the one hand, all the Lands lying about the great Lakes and beyond the Sources of the Rivers which fall into the River S^{t} Lawrence from the North, to be thrown into the Indian Country, and on the other hand, all the Lands from Cape Roziere to Lake Champlain, along the Heights where the Sources of the Rivers rise, which

fall into the Bay of Fundy and Atlantic Ocean, to be annexed to Nova Scotia and New England in such a manner as upon any future directions after particular Surveys have been made shall appear most proper, If this general Idea shall be approved the future Bounds of the new Colony of Canada will be as follows,

On the South East it will be bounded by the high Lands which range across the Continent from Cape Roziere in the Gulph of S^{t} Laurence to that point of Lake Champlain above S^{t} Johns which is in Latitude 45 Degrees North; which high Lands separate the heads of the Rivers which fall into the great River S^{t} Lawrence from the heads of those which fall into the Atlantick Ocean or Bay of Fundy. On the North West It will be bounded by a Line drawn South from the River S^{t} Johns in Labrador by the heads of those Rivers which fall into the River S^{t} Lawrence as far as the East end of Lake Nipissin upon the Ottowa River, and on the South West by a Line drawn due West to the River S^{t} Lawrence from that point on Lake Champlain which is directly opposite to where the South Line falls in and so cross the said River S^{t} Lawrence and pursuing a North West Course along the Heights where the Rivers rise, that fall into the Ottowa River, to be continued to the East end of Nipissin Lake where the North Line terminates.

In order however that Your Majesty may judge with the greater precision of the Limits of Canada as above described and also of those We shall propose for Florida, and of the Country we think right to be left as Indian Territory, We humbly beg leave to refer to the annex'd Chart[1] in which those Limits are particularly delineated, and of which Your Majesty will have a clearer Conception than can be conveyed by descriptive Words alone.

The Advantage resulting from this restriction of the Colony of Canada will be that of preventing by proper and natural Boundaries, as well the Ancient French Inhabitants as others from removing & settling in remote Places, where they neither could be so conveniently made ameanable to the Jurisdiction of any Colony nor made subservient to the Interest of the Trade & Commerce of this Kingdom by an easy Communication with & Vicinity to the great River S^{t} Lawrence. And this Division by the heights of Land to the South of the River S^{t} Lawrence will on the one hand leave all Your Majesty's new French Subjects under such Government, as Your Majesty shall think proper to continue to them in regard to the Rights & Usages already secured or

[1] The Report was accompanied by a printed map of North America by Eman. Bowen, Geographer to His Majesty, and engraved by John Gibson, on which the boundaries were marked.

that may be granted to them. On the other hand, the reannexing to Nova Scotia all that Tract of Land from Cape Roziere along the Gulph of S[t] Lawrence with the whole Coast of the Bay of Fundy to the River Penobscot, or to the River S[t] Croix will be attended with this peculiar Advantage, of leaving so extensive a Line of Sea Coast to be settled by British Subjects; and all the new Settlers upon this Tract of Land will with greater facility be made amenable to the Jurisdiction of Nova Scotia than to that of Canada; and upon the same Principle, It will likewise be necessary to reannex the Islands of Cape Breton and S[t] John's to the Government of Nova Scotia.[1]

And here, We cannot help offering it as Our humble Opinion that the utmost Attention should immediately be given to the Speedy Settlement of this Tract of Country and that Instructions be prepared for Your Majesty's Governor for that purpose, with particular regard to such Officers & Soldiers who have served so faithfully & bravely during the late War and who may now be willing to undertake such new Settlements under proper Conditions.

It is obvious that the new Government of Canada, thus bounded, will, according to the Reports of Generals Gage, Murray and Burton, contain within it a very great number of French Inhabitants and Settlements, and that the Number of such Inhabitants must greatly exceed, for a very long period of time, that of Your Majesty's British and other Subjects who may attempt Settlements, even supposing the utmost Efforts of Industry on their part either in making new Settlements, by clearing of Lands, or purchasing old ones from the ancient Inhabitants, From which Circumstances, it appears to Us that the Chief Objects of any new Form of Government to be erected in that Country ought to be to secure the ancient Inhabitants in all the Titles, Rights and Privileges granted to them by Treaty, and to increase as much as possible the Number of British and other new Protestant Settlers, which Objects We apprehend will be best obtain'd by the Appointment of a Governor and Council under Your Majesty's immediate Commission & Instructions. But the particular Regulations and Provisions to be adapted to the different Circumstances and Situation of this as well as Your Majesty's other new Acquisitions, will more properly and distinctly come under Your Majesty's Consideration in the Draught of the Commission and Instructions to be prepared for each Governor, than in this first general Report.

[1] It will be observed that Nova Scotia, or Acadia, still included the territory afterwards erected into the separate Province of New Brunswick. The island of St. Johns, here mentioned, is now Prince Edward Island.

It will however be necessary that a large military Force be kept up 'till the number of British Inhabitants and new Settlers be very considerably increased, as well to secure the Obedience and Fidelity of the ancient French Inhabitants as to give full Protection & Security to the new British Settlers.

Canada was, under the French, divided into the three Governments of Quebec, Montreal and Trois Rivieres, but the Residence of the chief Governor was at Quebec, and the two other Governments had each a Lieutenant Governor only, subordinate to the Governor in Chief, and we should humbly propose that the same Method be continued under the new Governm^{t}; not only as by this means the Administration of Justice and of Commerce will be less embarrass'd, but that a less proportion of military Force will be requisite to be maintained and be more easily applicable against all external or internal Disturbances.

Florida and that part of Louisiana to the eastward of the Missisippi, both which Tracts are ceded to Your Majesty by the late Treaty, may be compared to Canada, in respect to Extent of Territory, and the number of Indian Tribes, with which they have immediate Communication, but in other respects, they seem entirely different. The number of settled Inhabitants, either French or Spaniards, we apprehend, has never been considerable, and there is little probability, from the Facility of their Removal, that any of them will remain, after the Cessions are compleated, tho' we are of Opinion, as well from this Circumstance of their Paucity, as with a view to the immediate Settlement of the Country, that every Expedient should be used, to induce as many to remain as can be prevailed upon.—

The Produce of Canada, with its Trade, the Navigation of the River S^{t} Lawrence, with its Communication to the great Lakes of North America, are, from authentick Information, in many particulars tolerably well understood; but we are sorry it is not in our power, either from any materials in our Office, or from any other to be depended upon, to give Your Majesty that certain Information we could wish either with regard to the Coast, Harbours and Rivers of Florida, or as to the Variety of Produce which there is the greatest probability may be raised in that extended Country. We shall therefore content ourselves with suggesting at present, that whenever a Government is established in this Country, Instructions should be given for surveying with all possible Accuracy, as well the Sea Coast and places fit for Harbours as the internal Country and Rivers, particularly of that part which lies between the great

Mountains and the Missisippi, of which there are not extant any Charts or Accounts on which we can depend, for which purpose it will be necessary that a proper number of able and skilfull Surveyors be appointed.

The great Tract of Sea Coast from S^{t} Augustine, round Cape Florida, along the Gulph of Mexico, to the Mouth of the Missisippi makes it, we apprehend, indispenseably necessary that this Country should be divided into two distinct Governments, and, for the present, the Chief Residence of the Governor of the one should be at S^{t}Augustine, with orders to give particular Attention to Cape Florida, (as that Cape commands the whole Navigation from the Bay of Mexico) the Residence of the other at Pensicola, with particular Instructions regarding the Missisippi the free Navigation of which ought, we apprehend, to be most accurately understood, not only in respect of that River being the future Boundary betwixt Your Majesty's Dominions, and those of the French, but as this River by its Communication with the Ohio, the Illinoris &c^{a} is of the utmost Importance to all Connection with the Indian Nations and the only Outlet to the great internal Trade, which may be carried on amongst them.

If it shall be thought proper to divide Florida into two distinct Governments, they may be distinguished by the names of East and West Florida and may be bounded as follows,

East Florida to be bounded by the Coast of the Atlantick Sea from Cape Florida to the North Entrance of S^{t} John's River, on the East; by a Line drawn due West from the North Entrance of S^{t} John's River to the Catahowche or Flint Rivers, on the North; and on the West and South West by that part of the Coast of the Gulph of Mexico, which extends from Cape Florida to the Mouth of the Catahowche River, and from thence following the Course of the said Rivers to where the North Line falls in.

West Florida to comprehend all the Sea Coast of the Gulph of Mexico, extending West from the Catahowche River or Flint River towards the Missisippi, as far as Your Majesty's Territories extend, and stretching up into the Land as far as the 31st Degree of North Latitude, which, We humbly apprehend, is as far North as the Settlements can be carried, without interfering with Lands claimed or occupied by the Indians.

By this Plan of Division, which is formed with a view to make the two Colonies as distinct as possible, by establishing a natural Line of Separation between them, and by giving to each a due proportion of the natural Advantages and Conveniencies of Commerce and Navigation, a large Tract of Land lying between the North Boundary Line of East Florida and the River

Alatamaha, the present South Boundary of Georgia, which has hitherto been unoccupied, as to any permanent Settlement, either by Your Majesty's Subjects or those of Spain, remains to be put under some proper Establishment: and we think it cannot in any respect be better disposed of, than by putting it under the Jurisdiction and within the Government of Georgia, By this means the principle Obstacles, which have hitherto impeded the Progress of that advantageous and well regulated Colony, will be removed, and its Settlements extended to the great Benefit and Advantage of the Mother Country.

With respect to the Form of each of these Governments, We are of Opinion, that in regard to their being Infant Settlements the most suitable will be that of a Governor and Council, by Your Majesty's Commission, with Instructions adapted to the most quick and speedy Settlement of these Countries. But a considerable military Force must be likewise kept up in these Governments, as well in respect to the neighbourhood of the French and Indians, as to the Security of the Settlers, till their numbers enable them to have Security by their own internal Force.

The chief Object of the new acquired Islands in the West Indies, being that of extending West Indian Products of all kinds, as quickly as possible, to the Benefit of the Trade of Your Majesty's Kingdoms; And such Extension being impossible to be obtain'd but by the means of a very large Capital immediately to be laid out by Settlers in the Purchase of Negroes and Erection of Buildings, it is obvious that Security in this is more peculiarly to be attended to, and that as all those Islands, the Grenadaes excepted, which are inhabited by French, are almost entirely uncleared and uncultivated, It is equally obvious, that this Security cannot be obtained for some time at least but by the means of regular Troops—and We are clearly of opinion that this is so necessary, that We do not believe any Persons of sufficient Stock will be found willing to hazard the Capital necessary for a Sugar Plantation in any of these Islands without it.—The next Circumstance necessary to the Establishment of general Security is that of the regular Administration of Justice under a civil Government, the only Form of which that can be adapted to the present Situation of these Islands is, We apprehend, by a Governor and Council, under Your Majesty's immediate Appointment. But all particulars relative to it will best come under Your Majesty's Consideration, when We receive Your Orders to prepare the Commission and Instructions for the Governor.

We are of Opinion that the erecting all these Islands into one general Government, with a subordinate Lieutenant Governor in each, as is now practised in the Leeward Islands, will be better adapted, as well to the purposes of Civil Government as to the Application of military Power to the Protection of the whole, than either the separating of them into distinct Governments, or leaving those of S^{t} Vincent, Dominico and Tobago under the Commission of the Governor of Barbadoes.—For, by this means, the military Force will be best applied to the general Security, especially if their relative Situation be such as we are inform'd it is, that there is an easy Communication from y^{e} one to the other, even of those which appear to be most remote.—Their being subject to one Government for the present will likewise contribute best to the carrying most speedily into Execution those Instructions, which will be necessary, as well for surveying those Lands as for dividing them into Lotts proper for Sugar Plantations or other Products, and for granting such Lotts to such Persons as shall be willing to undertake the Settlement of them, either upon Sale, Lease or gratuitous Grants as Your Majesty shall think most proper to direct.—By this Disposition not only Your Majesty's Orders will go thro' the Channel of one Person, but one Person will be responsible for the due Execution of them.

Having thus given our humble opinion in general as to the Government, which it may be necessary for Your Majesty to establish in Canada, Florida and the West Indies, We should now conclude this point, reserving all other particulars relative to it to be offer'd to Your Majesty's Consideration in the Draughts of y^{e} Commissions and Instructions for the respective Governors, which must necessarily be prepared, if Your Majesty shall approve the general Proposition, but our Duty and the Experience of our Office, as well as the Authority of our Predecessors, oblige Us on this Occasion to make one other general Observation, which We humbly submit to Your Majesty.

That if all the Governors of Your Majesty's Colonies are not for the future obliged to constant Residence, as well as all subordinate Officers whatsoever, particularly in these new Governments, and appointed in such manner as to be removeable at Your Majesty's Pleasure there will be no proper Security either for the due Execution of their Offices upon the spot, or for their furnishing in a regular and punctual manner such Information to Your Majesty's Boards and Offices in this Kingdom, as is absolutely necessary for Your Majesty's Service, and for the Security and Improvement of Your old as well as new Colonies; and, We apprehend, it was upon a Conviction

of this Truth, that when the Governments of Georgia and Nova Scotia were lately erected, all the new Officers then created, were appointed in this manner.[1]

It now only remains that, in Obedience to Your Majesty's Commands, We should give our Opinions upon the mode of Revenue least burthensome and most palatable to the Colonies, whereby they can contribute to the additional Expence, which must attend the Civil and Military Establishments adopted on the present Occasion, but on this point of the highest Importance, it is intirely out of our Power to form any Opinion, which We could presume to offer for Your Majesty's Consideration, as most of the Materials necessary to form a just and accurate Judgement upon it, are not within the reach of our Office. Such as can be procured shall be collected with all possible Dispatch, and shall at any time be laid before Your Majesty, in such manner as You shall please to direct.

All which is most humbly submitted,

Whitehall
June 8th, 1763

Shelburne
Soame Jenyns
Ed: Eliot
Ed Bacon
John Yorke
Geo: Rice
Orwell
Bamber Gascoyne

Egremont to the Lords of Trade.[2]

Whitehall, July 14th 1763.

Lords of Trade

My Lords,—Your Report, dated the 8th of last Month, having been laid before the King, and His Majesty having taken the Same into Consideration; I am, in Consequence thereof, to acquaint your Lordships, That the King approves the Erecting Three New Governments in N° America, under the Denominations your Lordships propose, of Canada, East Florida, and West Florida; But, with regard to the Limits of these Governments, as described in the Report, and marked out in the Chart thereunto annexed; Altho' His Majesty entirely concurs in your Lordships Idea, of not permitting any Grant of Lands, or New Settlements to be made, for the present,

[1] Referring to the custom which had grown up, and which was the occasion of much complaint in the American Colonies, of granting to Court favourites and others lucrative offices in the colonies, the claims to which were treated as proprietary rights, but the duties of which were sometimes neglected altogether, or were discharged by inferior and poorly paid deputies sent out by the patentees. See Instructions to Governor Murray, sec. 24. See p. 189.

[2] A. and W. I., vol. 268, p. 205.

beyond the Bounds proposed by your Lordships; Yet the King thinks, that great Inconveniences might arise, from so large a Tract of Land being left, without being Subject to the Civil Jurisdiction of some Governor, in Virtue of His Majesty's Commission, under the Great Seal of Great Britain; And that, (besides the Difficulties there might be, for Want of such a Civil Jurisdiction, in bringing to Justice Criminals, & Fugitives, who may take Refuge in that Country,) Their not being included within some established Government might, in Time to come, furnish Matter of Dispute, with Regard to the Property; And other Powers, who might hereafter find Means of Access to those Countries, might take Possession thereof, as derelict Lands: The King therefore is of Opinion, that, in the Commission for the Governor of Canada, all the Lakes, viz[t], Ontario, Erie, Huron, Michigan, and Superior, should be included, with all the Country, as far North, & West, as the Limits of the Hudsons Bay Company, and the Mississippi; And also that all Lands whatsoever, ceded by the late Treaty, and which are not already included within the Limits of His Majesty's ancient Colonies, or intended to form the Governments of East and West Florida, as described in your Lordships Report, be assigned to the Government of Canada, unless your Lordships should suggest any other Distribution, which might answer the purpose more effectually; On which Matter your Lordships will lose no Time in making a Report to His Majesty.[1]

Having thus informed your Lordships of the King's Intentions, with regard to the Extent of the New Governments to be erected in North America; I am now to repeat to you, That His Majesty entirely concurs in your Lordships Idea, of not permitting, for the present, any Grant of Lands, or New Settlements, beyond the Bounds proposed in your Report; And that all the Countries, beyond such Bounds, be also, for the present, left unsettled, for the Indian Tribes to hunt in; but open to a free Trade for all the Colonies: And the King would have the Instructions to the Three New Governors in North America, formed so, as to contain the strongest Injunctions and Restrictions for this Purpose:—And His Majesty having been pleased to appoint The Hon[ble] James Murray to be Governor of Canada; Francis Grant Esq[r] to be Governor of East Florida; and George Johnstone Esq[r] to be Governor of West Florida: I am to signify to your Lordships, the King's Pleasure, that you do, forthwith, prepare, to be laid before His Majesty for His Approbation, Draughts of Commissions, and Instructions, for the said Three Governors, agreable to the King's Intentions communicated to you in this Letter, and to the Form of Government, proposed by your Lordships, of a Governor and Council by the King's Commission; Adapting the Instructions to the different Circumstances and Situation of the respective Countries; And your Lordships will insert an Instruction to the said Governors of Canada, and of East and West Florida, to cause accurate Surveys to be made, of the Countries under their Government.

[1] The reasons for not following the plan suggested are given in the reply of the Lords of Trade, of Aug. 5th, which follows this letter.

SESSIONAL PAPER No. 18

With regard to the ancient Colonies; I am to acquaint your Lordships, that the King approves the extending the Limits of Georgia in the Manner you suggest; as also the Additions, your Lordships propose to be made, to Nova Scotia; and, in Case such Addition to Georgia, and Nova Scotia, shall make it necessary to issue New Commissions to any of the present Governors in N° America, your Lordships will prepare Draughts thereof, for the King's Approbation: And your Lordships will also prepare Draughts of such Instructions, as shall be necessary, for the several Governors of the ancient Colonies, for preventing their making any New Grants of Lands beyond certain fixed Limits to be therein laid down for that purpose; And in these Instructions, as well as in Those for the New Governors, your Lordships will insert a Clause directing most particular Regard to be had, in the granting of any Lands, to such Officers and Soldiers, more especially Those residing in America, who have served so faithfully, and bravely, during the War, and who may now be willing to undertake any New Settleemnts under proper Conditions.

His Majesty thinks it highly proper, that the Agents for Indian Affairs should correspond with your Lordships, in regard to the Indian Country, and should transmit such Information on this Subject, as your Lordships shall require from them; for which purpose you will send them the necessary Orders and Instructions; But, with regard to the Commander in Chief of His Majesty's Forces, the King thinks, that His Correspondence should remain, as it has hitherto done, with the Secretary of State; who will not fail to communicate to your Lordships all such Informations, & Lights, as he shall, from time to time, furnish, relative to the State of the new Acquisitions in America; And as soon as your Lordships shall be able, from such Information, to make a more full and particular Report, as to the Number of Troops necessary to be maintained in the several Governments, and Posts, in America; and that the King shall have taken His Resolution thereupon; the Secretary of State will signify the same to the Commander in Chief: And, in the mean Time, I shall acquaint him, with your Lordships general Idea, that a large Military Force should be kept up in the New Governments; and such Garrisons, as he shall, in his Discretion, think proper, in the Forts already erected, and proposed to be kept up, for the Security of the Indian Trade.

Having now gone thro' the several Points, relative to North America, I come to the new acquired Islands in the West Indies; On which Subject I have only to inform your Lordships, that the King approves your Proposal of Erecting all These Islands, viz^{t} Grenada and the Grenadines; S^{t}. Vincent; Dominico; and Tobago; into one general Government; with a subordinate Lieutenant Governor in Each, as is now practiced in the Leeward Islands, under the same Form of Civil Government by a Governor and Council:— And His Majesty having been pleased to appoint Robert Melvill Esq. to be Governor of the said Islands; Your Lordships will prepare, to be laid before the King for His Approbation, the Draught of a Commission, and

Instructions, for the said Gentleman, adapted to the Situation & Circumstances of the same: But as the Islands of S^{t} Vincent, Dominico, & Tabago, as well as S^{t} Lucia, ceded to France by the Definitive Treaty, are all included, by Name, in the Commission of the Governor of Barbados; your Lordships will consider, whether it may not be necessary to dismember the said Islands from that Government, by a New Commission to the Governor, or by some other legal Method.

It is farther His Majesty's Pleasure, that your Lordships should forthwith take into your Consideration, and report, what Methods shall appear, to you, the most reasonable, and also the most frugal, for the peopling, and settling, the New Governments, with useful and industrious Inhabitants, either from such of His Majesty's Colonies, That may be overstocked with Inhabitants, or from any Foreign Parts.

I am &c.
EGREMONT

endorsed: Dra^{t}. to the Lords of Trade.
July 14th 1763.

Letter of Reference concerning the Extent & Settlement of the new Governments. All the Indian Country ought to be included under some civil Jurisdiction, tho' no Grants of Lands or Settlements to be permitted beyond certain Limits—And concerning Commissions & Instructions to be prepared for the New Governors.—

No. 9 A.

Lords of Trade to Egremont.[1]

WHITEHALL
August 5th 1763

MY LORD,—Having prepared an humble Representation to His Majesty upon that part of Your Lordship's Letter of the 14th of July last which acquaint us with His Majesty's Pleasure that all the Country therein describ'd should be assign'd to the Government of Canada, unless we should suggest some other Distribution which might more effectually answer His Majesty's Intention with respect to those Lands, We beg Leave to inclose to Your Lordship our said Representation desiring you will be pleased to lay it before His Majesty—

We are My Lord Your Lordship's
Most obedient and most humble Servants,

ORWELL SHELBURNE
BAMBER GASCOYNE ED: ELIOT
GEO: RICE

Earl of EGREMONT one of His Majesties Principal Secrys of State.
Endorsed: Aug^{t} 5th 1763 R 6th
Lords of Trade
with an Inclosure.

[1] This reply from the Lords of Trade, with its enclosure are not contained in the A. and W. I. series "Canada," vol. I. They are taken from Canadian Archives Q. 1, p. 109.

SESSIONAL PAPER No. 18

To The King's Most Excellent Majesty.

MAY IT PLEASE YOUR MAJESTY.

In Obedience to Your Majesty's Commands contained in a Letter from the Earl of Egremont, dated the 14th of July last signifying to Us Your Majesty's Most gracious Approbation of Our Idea, that that large Tract of Country bounded by the Mississippi and the Limits of the Hudson Bay Company on the one hand and on the other by the Limits of Canada, East and West Florida and His Majesty's ancient Colonies, should for the present be made subject to no grants of Lands nor to any Settlements. But acquainting us, that it was Your Majesty's Pleasure, that it should be put under some civil Jurisdiction, by a Commission under the Great Seal of Great Britain, so as to prevent any Objection, which might be formed, as to the Property of it, or its being considered as abandoned or direlict, or it's becoming a refuge for Criminals and Fugitives, and for these Reasons, that the whole of this Territory should be inserted in the Commission of the Governor of Canada, and assigned to that Government, unless we should suggest to Your Majesty some disposition which would answer these Purposes more effectually and directing us on this Matter to lose no time to report to Your Majesty.

We have taken this important Subject into our most serious Consideration and do most humbly concurr in Your Majesty's Opinion, of the propriety of putting this Country under a particular Government, by a Commission under Your Great Seal, with a most precise Description of its Boundaries, in Order to ascertain the actual possession of its property, and with such Powers as may be necessary, as well to maintain and secure the free Exercise of the Indian Trade, which it is proposed all Your Majesty's Subjects shall enjoy within it, under proper Regulations, as to prevent its becoming a Refuge to Criminals and Fugitives.—But at the same time, we beg Leave to submit to Your Majesty, the following Objections which have occurred to us, against the annexing this Country to any particular Government, especially to that of Canada—

1st We are apprehensive that, should this Country be annexed to the Government of Canada, a Colour might be taken on some future Occasion, for supposing that Your Majesty's Title to it, had taken it's Rise, singly from the Cessions made by France, in the late Treaty, whereas Your Majesty's Title to the Lakes and circumjacent Territory as well as to the Sovereignty over the Indian Tribes, particularly of the Six Nations, rests on a more solid and even a more equitable Foundation; and perhaps nothing is more necessary than that just Impressions on this Subject should be carefully preserved in the Minds of the Indians, whose Ideas might be blended and confounded, if they should be brought to consider themselves as under the Government of Canada—

2d We are apprehensive as the whole of this Country would become subject to the Laws of a particular Government or Province, it would give

that Province such superior Advantage in respect to the whole of the Indian Trade, which Your Majesty in Your Justice and Wisdom has determined to leave as open as possible, to all Your Subjects, as might controul and obstruct it to the Prejudice of Your other Colonies—

3d If this great Country should be annexed to the Government of Canada, we are apprehensive, that the Powers of such Government could not be carried properly into execution, either in respect to the Indians or British Traders, unless by means of the Garrisons at the different Posts and Forts in that Country, which must contain the greatest Part of Your Majesty's American Forces and consequently the Governor of Canada would become virtually Commander in Chief or constant and inextricable Disputes would arise, between him, and the commanding Officers of Your Majesty's Troops—

If these Objections should appear of Weight to Your Majesty, We would humbly propose, that a Commission under the Great Seal, for the Government of this Country, should be given to the Commander in Chief of Your Majesty's Troops for the time being adapted to the Protection of the Indians and the fur Trade of your Majesty's subjects; And We submit to your Majesty whether any Inconveniencies would arise, from such Commission, which would not equally arise from a like Commission to a Governor of any of Your Majesty's particular Colonies—

But as the Instructions to such Governour, if Your Majesty should approve of this Proposition, would require a great Variety of Information, both with respect to the Management of the Indian Tribes and Trade, which can only be had from Your Majesty's Commander in Chief, and Your Agents for Indian Affairs, We would further submit, whether the issuing such Commission and Instructions, may not be delayed; 'till by the receipt of such Information, which Your Majesty has been graciously pleased to direct, We are enabled to make a full and particular Report on that very important subject.—And we flatter Ourselves, that no such delay will produce any bad Consequences, either in Respect to this Country's being considered as direlect, while Your Majesty's Troops are in the actual possession of every Post and Fort formerly enjoyed by the French, or in respect of Criminals and Fugitives, taking refuge in this Country with Impunity, as this may be easily prevented by an Instruction to the present Commander in Chief, empowering and directing him to send back all such Persons to their respective Colonies—

In the mean time We humbly propose that a Proclamation be immediately issued by Your Majesty as well on Account of the late Complaints of the Indians, and the actual Disturbances in Consequence, as of Your Majesty's fixed Determination to permit no grant of Lands nor any settlements to be made within certain fixed Bounds, under pretence of Purchase or any other Pretext whatever, leaving all that Territory within it free for the hunting Grounds of those Indian Nations Subjects of Your Majesty, and for the free trade of all your Subjects, to prohibit strictly all Infringements

or Settlements to be made on such Grounds, and at the same time to declare Your Majesty's Intentions to encourage all such Persons who shall be inclined to commence new Settlements from Your old Colonies, together with all foreign Protestants, coming by themselves or with such Undertakers, in Your new Colonies of East and West Florida or your old Colony of Nova Scotia with particular regard to be shewn to those Officers and Soldiers, more especially those residing in America, who have so faithfully and bravely distinguished themselves, during the War, by allowing; Five thousand Acres lying together to every Field Officer; Three thousand Acres to every Captain, Two thousand five hundred Acres to every Subaltern or Staff Officer; One hundred Acres to every non-commission Officer, and Fifty Acres, to every private Man; in such parts as they shall chuse, on condition that they shall personally apply for and reside upon them subject to such terms of Cultivation, as your Majesty shall think proper to impose on all Persons undertaking such Settlements, which Encouragements may be also extended to reformed Commission Officers in Your Majesty's Navy in Case Your Majesty shall judge it reasonable and expedient.

All which is most humbly submitted

SHELBURNE
ED. ELIOT
GEO: RICE
ORWELL
BAMBER GASCOYNE

WHITEHALL
Aug^{t} 5th 1763

Endorsed Aug^{t} 5th 1763
R 6th Lords of Trade

Report concerning the Lands to be reserved for the Indians—Proposing that a Commission under the Great Seal be given to the Commander in Chief, for the Government of that Country—with objections to the annexing them to any Province—and Proposing an immediate Proclamation concerning Indian Lands—

Inclosure in N° 10

Halifax to the Lords of Trade[1]

S^{t} JAMES's Sept^{r} 19th 1763.

Lords of Trade.

MY LORDS,—Having laid before the King Your Lordships, Representation of the 5th of August last, transmitted to the late Earl of Egremont in your Letter of the same Date, I am commanded to acquaint Your Lordships that His Majesty, upon Consideration of the Reasons therein set forth, is pleased to lay aside the Idea of including within the Government of Canada, or of any established Colony, the Lands which are to be reserved,

[1] A. and W. I., vol. 268, p. 217.

for the present, for the Use of the Indians. And His Majesty thinks proper to direct that the Extent of the Commission, which Your Lordships are to prepare for the Hon^ble^ James Murray, shall be exactly such as is marked out in your first Report of the 8^th^ of June last, and in the Map thereto annexed, under the Denomination of Canada. That such Government be described in the Commission, as comprehending all such Part of Canada on the North Side of the River S^t^ Lawrence, and all such Parts of His Majesty's antient Colonies of Nova Scotia, New England, and New York, on the South Side of the said River, as lie within the Limits above mentioned, and that It be called the Province of Quebec.

His Majesty approves Your Lordships' Proposition of issuing immediately a Proclamation, to prohibit for the present, any Grant or Settlement within the Bounds of the Countries intended to be reserved for the Use of the Indians; and to declare the Encouragement, which His Majesty, in his Royal Bounty, is graciously pleased to give to reduced Officers, and Soldiers, who served in North America, during the late War, and are desirous of settling in the Colonies. But His Majesty is of opinion, that several other Objects, of much Importance to his Service, might, with great Propriety, be provided for at the same time: And that the speedy Settlement of the new Colonies might be promoted; the Friendship of the Indians more speedily and effectually reconciliated, and Provision be made for preventing Inconveniences, which might otherwise arise from the Want of Civil Jurisdiction in the interior, and reserved Countries, by extending such Proclamation to the following Purposes, viz^t^

To make known the Establishment and Limits of the four new Colonies, and the Additions made to the Governments of Newfoundland, Nova Scotia, and Georgia.

To declare the Constitution of the new Governments, as established for the present, & intended in future, and the general Powers which the Governors will have of granting Lands within Them.

To prohibit private Purchases of Lands from Indians.

To declare a free Trade for all His Majesty's Subjects with all the Indians, under Licence, Security, and proper Regulations. —And

To impower all Military Officers and Agents for Indian Affairs, within the reserved Lands, to seize such Criminals, and Fugitives, as may take Refuge in that Country, and to send them to be tried in any of the old Colonies (if That can legally be done) or else to that Government, from which They respectively fled.

It is therefore His Majesty's Pleasure, that Your Lordships do immediately prepare, and transmit to me the Draught of such a Proclamation as may extend to the several Points abovementioned.—But, with respect to One of Them, namely the Encouragements to be offered to reduce Officers, and Soldiers, I am to acquaint Your Lordships, that His Majesty's Intentions are, To grant to such reduced Officers only, as have served in North America during the late War, and to such private Soldiers only, as have been, or shall be, disbanded in America, and are actually residing there, the following Quantities of Land, in any of the Colonies on the Continent, upon the usual Reservation of Quit-Rents, after the Expiration of ten Years, and upon sure Terms of immediate Settlement, & Cultivation; viz[t]

To every Person having the Rank of a Field Officer.....	5,000 Acres
To every Captain.....	3,000
To every Subaltern or Staff Officer	2,000
To every non-commissioned Officer	200
To every private Man.....	50

His Majesty is also graciously pleased to offer the like Quantities of Land, upon the same Terms, to such reduced Officers of his Navy, of like Rank, as served on board his Ships of War in North America, at the time of the Reduction of Louisbourg, and Quebec in the late War.

I am farther to acquaint Your Lordships, that, as it is of the greatest Importance, that the General Plan, upon which His Majesty's Subjects are to carry on a free Trade with all the Indians of North America, should be established as soon as possible, His Majesty expects that Your Lordships will avail Yourselves of every Information in Your Power, and lay before Him, with all possible Dispatch, a System of Regulations for that purpose.

As to the Commission proposed in Your Lordships', Report of the 5[th] of August to be given to the Commander in Chief of His Majesty's Forces, for the government of the interior Country, if upon Experience, & future Information, it shall still appear to Your Lordships to be expedient, & practicable, You will be pleased to prepare, and lay it before His Majesty.

I am &c.,

DUNK HALIFAX.[1]

endorsed: Sept[r] 19[th] 1763,

Dra[t]

[1] George Dunk, Earl of Halifax, succeeded Hon. George Grenville as Secretary of State (Northern Department) Oct. 14th, 1762. On Aug. 21st, 1763, the Earl of Egremont died suddenly from apoplexy and the Earl of Halifax temporarily took over the duties of the department, being formally transferred to the Southern Department about Sept. 9th. He was succeeded in the Northern Department by the Earl of Sandwich.

To the Lords of Trade

Letter of Reference concerning the extent of the new Provinces—The Lands to be reserved for the use of the Indians by Proclamation—A free Trade with the Indians under proper Licences & Regulation—The Lands to be granted to Reduced Officers and Soldiers—And a Commission proposed to be given to the Commander in Chief for the Government of the Interior Country.

Lords of Trade to Halifax.[1]

WHITEHALL October 4th 1763.

MY LORD,—In obedience to His Majesty's Commands, signified to us by Your Lordship's Letter of the 19th of last Month, we have prepared, and herewith transmit to your Lordship, the Draught of a Proclamation, conformable to the Directions contained in your Lordship's Letter; And having laid the said Draught before His Majesty's Attorney General, He has reported to us, That, the same is agreeable to Law, and to the usual Form of Proclamations.

We have only to observe to your Lordship, that, in order to save time, we have fixed the Limits of East Florida according to Our Letter to your Lordship of the 28th of last Month, presuming that our Opinion, mentioned therein, will be approved of by His Majesty.

We beg leave further to add, That as it appears to us, upon a Revision of the Report of this Board of the 8th of June last, That, it will be expedient for His Majesty's Service, and give Confidence and Encouragement to such Persons as are inclined to become Settlers in the new Colonies, That an immediate and public Declaration should be made of the intended permanent Constitution and that the power of calling Assemblies should be inserted in the first Commissions, We have therefore drawn the Proclamation agreeable to this Opinion, and have prepared the Commissions accordingly; and we humbly hope Our Conduct herein will meet with His Majesty's approbation, as we conceive, that any temporary Power of making Ordinances and Regulations, which must of necessity be allowed to the Governors and Councils before Assemblies can be called, as well

[1] A. & W. I., vol. 268, p. 227.

as the mode of exercising that Power, will be better inserted in the Instructions, which we are now preparing.—

We are
My Lords
Your Lordship's
most obedient and
most humble Servants
HILLSBOROUGH
Ed BACON
JOHN YORKE.
ORWELL

Rt Honble Earl of Halifax
endorsed: October 4. 1763
Board of Trade
R 4th

Inclosing the Proclamation relative to America, and Observing that it will be better to insert, in the Instructions preparing for the Governors of the New Provinces, any temporary Power of making Ordinances & Regulations which may be allowed to the Governors & Councils, than in the first Commissions. 20th An Inclosure.

B. N° 5.

PROCEEDINGS IN THE PRIVY COUNCIL.[1]

AT THE COURT AT St JAMES'S

the 5th day of October 1763.

Present

THE KING'S MOST EXCELLENT MAJESTY

&c. &c.

Proclamation relative to the settling the New Governments in America—Approved.

Whereas there was this day read at the Board a Draught of a Proclamation prepared by the Lords Commissioners for Trade and Plantations relative to the erecting within the Countries and Islands ceded and confirmed to His Majesty by the late Definitive Treaty, four distinct and separate Governments by the Names of Quebec, East Florida, West Florida Grenada, and declaratory of the Constitution of the said New Colonys, of the encouragements to be given to reduced Officers and Soldiers and the Regulations to be observed in respect to the Indian Commerce and Country—His Majesty taking the said Draught of a Proclamation into His Royal Consideration, was pleased with the advice of His Privy Council to approve

[1] Privy Council Register; Geo. III, p. 100,

thereof, and to Order, as it is hereby Ordered that the Right Honourable the Earl of Halifax, One of His Majestys Principal Secretarys of State do cause the said Draught of a Proclamation (which is hereunto annexed) to be prepared for His Majesty's Royal Signature.—

Proclamation Mem^d this Proclamation was signed by His Maj^ty and dated the 7^th Inst.

Seals Draughts to be prepared for East and West Florida, Quebec and the Grenadas—

Whereas there was this day read at the Board a Representation from the Lords Commissioners for Trade and Plantations, setting forth that His Majesty having been graciously pleased to approve a Plan for the erecting and establishing four Civil Governments in the Islands and Territories in America, ceded to His Majesty by the late Definitive Treaty, and it appearing to be necessary and expedient that a Publick Seal should be prepared for Sealing all publick Instruments in each of those Governments agreeable to the Method practiced and established in all other His Majesty's Colonies in America; The said Lords Commissioners therefore propose that Directions may be given to prepare with all possible Dispatch a Draught of a Seal for each of the said Governments conformable to the following Descriptions Viz^t—

For the Province of Quebec

On the One side His Majestys Effigies, pointing to a Chart of that Part of America through which the River of S^t Lawrence flows, including the Gulph and with this Legend or Motto underneath, Extensæ gaudent agnoscere Metæ; and this Inscription around the Circumference, Sigillum Provinciæ nostræ Quebecensis in America; and on the Reverse His Majesty's Arms, Crown, Garter, Supporters and Motto with this Inscription round the circumference, Geo. III. Dei Gratia Magnæ Britanniæ, Franciæ et Hiberniæ Rex, Fidei Defensor Brunsvici et Luneburgi Dux, Sacri Romani Imperii, Archi Thesausarius et Elector.

Drafts of Comiçons for the Gov^rs of Quebec, East Florida, West Florida & and *Grenadas.*

Upon reading this day at the Board a Representation* from the Lords Commissioners for Trade and Plantations dated the 4^th of this Instant together with Draughts of Commissions prepared by them for the Honourable James Murray, Esq^r to be Governor of Quebec, James Grant Esq^r to be Governor of East Florida, George Johnstone Esq^r to be Governor of West Florida, and Robert Melvill Esq^r to be Governor of Granada, Dominico, S^t Vincent and Tobago—It is Ordered by His Majesty in Council that the said Representation and Draughts of Commissions Be, and they are hereby referred to the Right Honourable the Lords

a Commee

* This Representation is quoted in the Report of the Lords of the Committee upon the Drafts of Commissions for the Governors of Quebec, &c., 6th October, 1763.

of the Committee of Council for Plantation Affairs to consider the same and Report their Opinion thereupon to His Majesty at this Board —

REPORT ON COMMISSIONS FOR GOVERNORS.[1]

N° 9 A.
AT THE COUNCIL CHAMBER WHITEHALL

the 6th day of October 1763—

By the Right Honourable the Lords of the Committee of Council for Plantation Affairs &c[a].

Present

Earl of Sandwich — Earl of Hillsborough[2]
Earl of Halifax

Comiçons Report of the Lords of the Committee upon Drafs of Commissions for the Gov[rs] of Quebec, East Florida, West Florida and the Granadas —

Your Majesty having been pleased by Your Order in Council of the 5th of this Instant to referr unto this Committee a Representation from the Lords Commissioners for Trade and Plantations, setting forth, "that in Obedience to Your Majesty's "Commands signified to them in a Letter from the late Earl of "Egremont dated the 14th July, last, they have prepared "Draughts of Commissions for the Honourable James Murray "Esq[r] to be Governor of Quebec, James Grant Esq[r] to be Governor "of East Florida, George Johnston Esq[r] to be Governor of West "Florida, and Robert Melvil Esq[r] to be Governor of Grenada, "Dominico and Tobago—That in the Description of the Govern- "ments of Quebec, East Florida, and West Florida they have "conformed to the Limits and Bounds which your Majesty has "been pleased to direct and approve, and as they conceived "it to be Your Majesty's Royal Intention, that the Form and "Constitution of Government in these new Colonies, should be "as near as may be similar to what has been established in those "Colonies, which are under Your Majesty's immediate Govern- "ment, they have therefore prepared these Commissions accord- "ingly, by which the Governors are impower'd and directed "so soon as the Circumstances of the Colonies will admit thereof, "to summon and call General Assemblys of the Freeholders "in their respective Governments in such Manner as is practised "in Your Majesty's other Colonies; That they have omitted "in these Commissions any Power that it may be necessary "to grant to the Governors and Councils of Your Majestys "said new Colonies to make Temporary Regulations until

[1] Privy Council Register, Geo. III, p. 112.
[2] Wills, Earl of Hillsborough, succeeded the Earl of Shelburne as President of the Board of Trade, Sept. 9th, 1763.

"Assemblys can be called, because they were of Opinion that an "immediate and publick Declaration of the intended permanent "Constitution, and an Insertion in the first Commissions of the "Power of calling Assemblys so soon as the Circumstances will "admit, is expedient for Your Majesty's Service, and will give "Confidence and Encouragement to such of Your Majesty's "Subjects, as shall incline to settle in your said new Colonies, "and because such Power of making temporary Regulations may "be given in the General Instructions which they shall prepare "and lay before Your Majesty with all possible Dispatch.— "That there are in the Commissions to the Governors of Your "Majesty's other Colonies some Clauses respecting the Power "of suspending and comptrolling the Council, but as they conceive "these Matters may be more properly and regularly provided "for in the Instructions under those Articles which direct the "Nomination of the Council, ascertain their Authority and point "out their Duty and Methods of Proceedings, they have there- "fore omitted these Clauses in the present Draughts in order "to insert them in the Instructions—"

The Lords of the Committee in Obedience to Your Majestys said Order of Reference this day took the said Representation and Draughts of Commissions into their Consideration, and are of opinion, that in order to make the said Commissions agreeable to the Instructions to be given to the said Governors the following Addition should be made to each of the said Commissions at the End of that Article whereby the said Governors are empowered to make Grants of Land—Viz^{t}

"Provided the same be made comformable to the Instruc- "tions herewith delivered to you, or to such other Instructions "as may hereafter be sent to You under Our Signet and Sign "Manual, or by Our Order in Our Privy Council.—" And the Lords of the Committee having accordingly caused the said Addition to be made in each of the said Draughts do agree humbly to lay the same so amended before Your Majesty for Your Royal Approbation – –

Your Majesty having been pleased by Your Order in Council of the 5th of this Instant to referr unto this Committee a Representation from the Lords Commissioners for Trade and Plantations setting forth, "that in Obedience to Your Majesty's Commands signified to them by a Letter from the Earl of Halifax, dated the 27th of last Month they have prepared, and humbly lay before Your Majesty, the Draught of a Commission appointing Montagu Wilmot Esq^{r} Governor of Nova Scotia, in which Draught they have so described the Northern and Eastern Limits of this Province, as to make it conformable to what

has been already approved in respect to the Southern boundary of the Province of Quebec, and to comprehend the Islands of Cape Breton and S^{t} Johns,[1] that they have also made the River S^{t} Croix the Boundary to the Westward, for, although it be true that the ancient Limits of this Province, as it was possessed by France under the Treaties of Breda and Ryswick and ceded to Great Britain by the Treaty of Utrecht under the Name of Acadia, did extend as far West as the River Pentagoet or Penobscot, yet as it appears to have been determined in the Year 1732, upon a full examination of the Claims of the Province of the Massachusets Bay, as well by the Attorney and Sollicitor General, as by this Board, and finally by His Majesty in Council, that the said Province had a right of Jurisdiction and property under the Limitation of the Charter, to the Country between the Rivers Sagadehock and S^{t} Croix, and as in consequence of this Examination, the Instructions given to Colonel Dunbar, and to the Governor of Nova Scotia to make Settlements within that Tract were revoked, and it was Ordered that the Province should not be disturbed in the possession they claim to have of this Country it does not appear to them that this question is for the present open to a New Discussion: But as they conceive there are many material circumstances in favour of Your Majesty's Right to the Country as far Westward as the River Penobscot which were not stated in the Case laid before the Attorney and Sollicitor General in 1732, upon which Case their Opinion and the Dicision of the Council were founded, they do not think it adviseable that this Restriction of the Western Bounds of Nova Scotia to the River S^{t} Croix should pass without some reservation of Your Majesty's Right to the Country between that River and Penobscot, being entered upon the Council Books; And they rather humbly proposed this to Your Majesty, as it may be a means of hereafter removing any Objection which may be taken on the part of the Province of Massachusets Bay to the Southern Line of Quebec, as far as it concerns their Northern Limits, for if such Objection should be made, and it should appear upon examination they have any just ground of Complaint, it will be in Your Majesty's power to make them a reasonable Compensation, by allowing their Jurisdiction to extend as far Eastward as the River S^{t} Croix, between which and the River Penobscot they have lately made some considerable Settlements."

Committee Report upon the Draught a Comiçon for Montagu Wilmot Esq^{r} to be Gov^{r}

The Lords of the Committee in Obedience to Your Majestys said Order of Reference this day took the said Representation and Draught of a Commission into their Consideration, and being

[1] Now Prince Edward Island.

of Opinion that Your Majesty's Right to the Country between the River S[t] Croix, and the River Penobscot (the ancient Limits of the said Province) ought to be reserved in a more publick manner than by an Entry in the Council Books, do therefore propose that the following alteration should be made in the said Draught of a Commission for that purpose. Viz[t] After the Appointment of Montagu Wilmot to be Captain General and Governor in Chief in and over the Province of Nova Scotia, the description of the Boundarys of the said Province to be left out, and the following words inserted in lieu thereof "Which "we have thought proper to restrain and comprize within "the following limits —Viz[t]: to the Northward, Our said Province "shall be bounded by the Southern Boundary of Our Province "of Quebec as far as the Western extremity of the Bay des Chal- "eurs; To the Eastward by the said Bay and the Gulph of S[t] "Lawrence, to the Cape or Promontory called Cape Breton in "the Island of that Name including that Island, the Island of "S[t] Johns, and all other Islands within Six Leagues of the Coast; "To the Southward by the Atlantick Ocean from the said "Cape to Cape Sable, including the Island of that Name, and all "other Islands within forty Leagues of the Coast, with all the "Rights, Members and Appurtenances whatsoever thereunto "belonging; And to the Westward altho' Our said Province "hath anciently extended, and doth of Right extend as far as "the River Pentagouet or Penobscot, it shall be bounded by a "Line drawn from Cape Sable across the Entrance of the Bay "of Fundy, To the mouth of the River S[t] Croix, by the said "River to its source, and by a Line drawn due North from thence "to the Southern Boundary of Our Colony of Quebec." And their Lordships are further of Opinion that it will be proper to make the following Addition at the end of the Article empowering the said Governor to make Grants of Lands Viz[t] "Provided "the same be made conformable to the Instructions herewith "delivered to you, or to such other Instructions as may hereafter "be sent to you under Our Signet and Sign Manual, or by "Our Order in Our Privy Council."

These boundaries are the same as those described in Montagu Wilmot's Com[n] dated 21. Nov. 1763.

The Lords of the Committee have therefore caused the said alteration and Addition to be made in the said Draught of a Commission accordingly, and do agree humbly to lay the same before Your Majesty for Your Royal Approbation—

SESSIONAL PAPER No. 18

Halifax to Lords Commissioners for Trade and Plantations

B. N° 5.—

S[t] JAMES's Oct. 8, 1763.

Lords Commiss[rs] for Trade & Plantations—

A. & W. I. Vol. 268 p. 261 1763 Oct. 8.

MY LORDS,—Having laid before the King your Lordships Letter of the 6[th] instant with the Dra[t] of a Proclamation therein inclosed, and His Majesty having been pleased to approve the said Draught, & to order it to be printed, & passd under the great Seal, in the usual Form, I send your Lordships herewith a number of printed Copies of the said Proclamation & am to signify to your Lordships His Majesty's Pleasure that you should transmit them to the Governors of His Majesty's several Colonies & Plantations in America & to the Agents for Indian Affairs.

I am, &c.,
DUNK HALIFAX.

endorsed: October 8. 1763.
Dra[t] to Board of Trade
Signifying the King's Pleasure that they should transmitt Copies of the Proclamation to the Governors of the Colonies & the Agents for Indian Affairs.—

BY THE KING.[1]

A PROCLAMATION

GEORGE R.

WHEREAS We have taken into Our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace, concluded at Paris, the 10th Day of February last; and being desirous that all Our loving Subjects, as well of our Kingdom as of our Colonies in America,[2] may avail themselves with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought

[1] Taken from the text as contained in the "Papers Relative to the Province of Quebec," 1791, in the Public Record Office. Copied in the Canadian Archives Q 62 A, pt. I., p. 114.

[2] The attitude of the Home Government at this time, on the subject of immigration, the kind of immigrants to be favoured, and even the need of an outlet for surplus population on the part of some of the older colonies in America, may be gathered from a report of the Lords of Trade, Nov. 5, 1761, upon the proposal to transport a number of Germans to the American Colonies after the peace. They point out that as "regards colonies possessed before the war, the increase of population is such, 'as scarce to leave room in some of them for any more inhabitants.' The encouragement and advantages of the less populated southern colonies are such as to induce sufficient migration without burdening the public. Our own reduced sailors and soldiers would be more proper objects of national bounty, and better colonists, than foreigners, whose ignorance of the English language, laws, and constitution cannot fail to increase those disorders and that confusion in our Government, which the too great migration of people from Germany has already fatally introduced in some of our most valuable possessions." *Calendar of Home Office Papers of the Reign of George III. 1760-1765.* No. 349.

fit, with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving Subjects, that we have, with the Advice of our Said Privy Council, granted our Letters Patent, under our Great seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.

First—The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South end of the Lake Nipissim; from whence the said Line, crossing the River S^{t} Lawrence, and the Lake Champlain, in 45. Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River S^{t} Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of S^{t} Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River S^{t} Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of S^{t} John.

Secondly—The Government of East Florida, bounded to the Westward by the Gulph of Mexico and the Apalachicola River; to the Northward by a Line drawn from that part of the said River where the Chatahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said River to the Atlantic Ocean; and to the Eastward and Southward by the Atlantic Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly—The Government of West Florida, bounded to the Southward by the Gulph of Mexico, including all Islands within Six Leagues of the Coast, from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi; to the Northward by a Line drawn due East from that part of the River Mississippi which lies in 31 degrees North Latitude, to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

Fourthly—The Government of Grenada, comprehending the Island of that name, together with the Grenadines, and the Islands of Dominico, S^{t} Vincent's and Tobago.

And to the end that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent Islands, We have thought fit, with the advice of our said Privy Council, to put all that Coast, from the River S^{t} John's to Hudson's Streights, together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the care and Inspection of our Governor of Newfoundland.

We have also, with the advice of our Privy Council, thought fit to annex the Islands of S[t] John's and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to our Government of Nova Scotia.[1]

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of Georgia all the Lands lying between the Rivers Alatamaha and S[t] Mary's.

And whereas it will greatly contribute to the speedy settling our said new Governments, that our loving subjects should be informed of our Paternal care, for the security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this Our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to our Governors of our Said Colonies respectively, that so soon as the state and circumstances of the said Colonies will admit thereof, they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies[2] within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; and We have also given Power to the said Governors, with the consent of our Said Councils, and the Representatives of the People so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies; and in the mean Time, and until such Assemblies can be called as aforesaid, all Persons Inhabiting in or resorting to our Said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and public Justice within our Said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in our Privy Council.

We have also thought fit, with the advice of our Privy Council as aforesaid, to give unto the Governors and Councils of our said Three new Colonies, upon the Continent full Power and Authority to settle and agree

[1] Nova Scotia would thus include the three present maritime provinces of Nova Scotia New Brunswick, and Prince Edward Island.

[2] With reference to the reasons given and provisions made for calling Assemblies in the new Provinces, see Report of the Lords of Trade, Oct. 4th, 1763, p. 156, also report of the Lords of the Committee of Council for Plantation Affairs, Oct. 6th, 1763, p. 159. See also the Commission to Hon. James Murray to be Governor of Quebec, p. 175, and the Instructions to Governor Murray, sec. 11, p. 185.

with the Inhabitants of our said new Colonies or with any other Persons who shall resort thereto, for such Lands, Tenements and Hereditaments, as are now or hereafter shall be in our Power to dispose of; and them to grant to any such Person or Persons upon such Terms, and under such moderate Quit-Rents, Services and Acknowledgments, as have been appointed and settled in our other Colonies, and under such other Conditions as shall appear to us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and settlement of our said Colonies.

And Whereas, We are desirous, upon all occasions, to testify our Royal Sense and Approbation of the Conduct and bravery of the Officers and Soldiers of our Armies, and to reward the same, We do hereby command and impower our Governors of our said Three new Colonies, and all other our Governors of our several Provinces on the Continent of North America, to grant without Fee or Reward, to such reduced Officers as have served in North America during the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject, at the Expiration of Ten Years, to the same Quit-Rents as other Lands are subject to in the Province within which they are granted, as also subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer.5,000 Acres.
To every Captain.....3,000 Acres.
To every Subaltern or Staff Officer.....2,000 Acres.
To every Non-Commission Officer..... 200 Acres.
To every Private Man..... 50 Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all our said Colonies upon the Continent of North America to grant the like Quantities of Land, and upon the same conditions, to such reduced Officers of our Navy of like Rank as served on board our Ships of War in North America at the times of the Reduction of Louisbourg and Quebec in the late War, and who shall personally apply to our respective Governors for such Grants.[1]

And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds.—We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of

[1] On Oct. 13th, 1763, the Earl of Halifax wrote to the Attorney General, inquiring "as to the means which should be used to nullify the doubtfulness of a paragraph in H. M's proclamation, which makes it appear that only those officers which served both at Louisbourg and Quebec are entitled to grants of land, such not being His Majesty's intention." *Calendar of Home Office Papers, 1760-1765*, No. 1036.

Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their respective Governments, as described in their Commissions; as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And, We do further declare it to be Our Royal Will and Pleasure, for the present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of Our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North West as aforesaid;

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial leave and Licence for that Purpose first obtained.

And, We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded to or purchased by Us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians; In order, therefore, to prevent such Irregularities for the future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where, We have thought proper to allow Settlement; but that, if at any Time any of the said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively within which they shall lie; and in case they shall lie within the limits of any Proprietary Government, they shall be purchased only for the Use and in the name of such Proprietaries, conformable to such Directions and Instructions as We or they shall think proper to

give for that Purpose; And we do, by the Advice of our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever, provided that every Person who may incline to Trade with the said Indians do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of Our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any Time think fit, by ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade:

And we do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under Our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And we do further expressly enjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of Indian Affairs, within the Territories reserved as aforesaid for the use of the said Indians, to seize and apprehend all Persons whatever, who standing charged with Treason, Misprisions of Treason, Murders, or other Felonies or Misdemeanors, shall fly from Justice and take Refuge in the said Territory, and to send them under a proper guard to the Colony where the Crime was committed of which they stand accused, in order to take their Trial for the same.[1]

Given at our Court at St. James's the 7th Day of October 1763, in the Third Year of our Reign.

GOD SAVE THE KING

EGREMONT TO GOVERNOR MURRAY.[2]

WHITEHALL, Augt 13th 1763.

GOVr MURRAY.

SIR, I take great Satisfaction in acquainting you, that His Majesty has been graciously pleased to confer on you the Government of Canada, over which Country you have already presided so long with such Applause,

[1] The Earl of Halifax, in a letter to the Secretary at War, March 11, 1765, directing him to prepare and bring into Parliament a bill to extend the Mutiny Act to North America, points out that there are many posts in that country which are not under any civil jurisdiction, and that therefore the additions to be made to the 60th clause of the Mutiny Act are very necessary. This is especially so since, in the Proclamation of Oct. 7th, 1763, while provision is made for apprehending and bringing to justice such criminals as might take refuge at these posts, yet no mode is established for the punishment of crimes committed at those posts, or in the reserved territories. See *Calendar of Home Office Papers 1760-1765, No. 1671*

[2] This is a portion of a letter from the Secretary of State, the Earl of Egremont, to Governor Murray. The remainder of the letter refers to the priest Le Loutre who had formerly occasioned much trouble in Acadia, and also to claims for lands granted to the late French Governor, Vaudreuil, in western Canada. Copy, from Public Record Office, in Canadian Archives, Q. 1, p. 117.

SESSIONAL PAPER No. 18

that The King is persuaded this appointment will be received by His new subjects as a singular mark of His Majesty's Royal attention to their Welfare & Happiness.

The necessary Commission & Instructions for you, on this occasion, which are preparing by the Board of Trade with all Dispatch, will be forwarded to you as soon as possible, and as they will contain very full Directions, not only with regard to the Form of Government to be established in Canada, but to your Conduct in every particular; I have no new Orders to transmit to you at present; But His Majesty thinks it very material, that you should be apprized, that He has received Intelligence, which give some reason to suspect, that the French may be disposed to avail Themselves of the Liberty of the Catholick Religion granted to the Inhabitants of Canada, in order to keep up their Connection with France, and, by means of the Priests, to preserve such an Influence over the Canadians, as may induce them to join, whenever Opportunity should offer, in any attempts to recover that Country; It therefore becomes of the utmost Consequence to watch the Priests very narrowly, and to remove, as soon as possible, any of them, who shall attempt to go out of their sphere, and who shall busy themselves in any civil matters: For tho' The King has, in the 4th Article of the Definitive Treaty, *agreed to grant the Liberty of the Catholick Religion to the Inhabitants of Canada;* and tho' His Majesty is far from entertaining the most distant thought of restraining *His new Roman Catholick Subjects from professing the Worship of their Religion according to the Rites of the Romish Church:* Yet the Condition, expressed in the same Article, must always be remembered, viz^{t}: *As far as the Laws of Great Britain permit,* which Laws prohibit absolutely all Popish Hierarchy in any of the Dominions belonging to the Crown of Great Britain, and can only admit of a Toleration of the Exercise of that Religion; This matter was clearly understood in the Negotiation of the Definitive Treaty; The French Ministers proposed to insert the Words, *comme ci-devant,* in order that the Romish Religion should continue to be exercised in the same manner as under their Government; and they did not give up the Point, 'till they were plainly told that it would be deceiving them to admit those Words, for The King had not the Power to tolerate that Religion in any other Manner, than *as far as the Laws of Great Britain permit:* These Laws must be your guide in any Disputes that may arise on this Subject; But, at the same Time, that I point out to you the necessity of adhering to Them, and of attending with the utmost Vigilance to the Behaviour of the Priests, The King relies on your acting with all proper Caution & Prudence in regard to a matter of so delicate a Nature as this of Religion; And that you will, as far as you can, consistently with your Duty in the Execution of the Laws, & with the Safety of the Country, avoid every Thing that can give the least unnecessary Alarm, or Disgust, to His Majesty's new Subjects.

* * * * * * *

I am &^{c}

Endorsed: Dra^{t} to Governor Murray EGREMONT.
Aug^{t} 13th 1763.

PASSING GOVERNORS' COMMISSIONS.[1]

At the Court at St. James's
the 7th day of October 1763
Present
The King's most Excellent Majesty—
&c &c—

Commissions For the Govrs of Quebec, East Florida, West Florida, and the Grenadoes—Appd.

Upon reading this day at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs dated the 6th of this Instant humbly offering to His Majesty for His Royal Approbation four Draughts of Commissions prepared by the Lords Commissrs for Trade and Plantations for the Honourable James Murray Esqr to be Governor of Quebec, James Grant Esqr to be Governor of East Florida, George Johnstone Esqr to be Governor of West Florida, and Robert Melvill Esqr to be Governor of Grenada, Dominico, St Vincent and Tobago—His Majesty taking the same into Consideration is pleased with the Advice of His Privy Council to approve of the said Draughts of Commissions (which are hereunto annexed) and to order as it is hereby Ordered that the Right Honourable the Earl of Halifax one of His Majestys Principal Secretarys of State do cause Warrants to be prepared for His Majestys Royal Signature in order to pass the said Commissions under the Great Seal of Great Britain.—

Nova Scotia Commission for Montagu Wilmot to be Govr Appd

Upon reading this day at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs, dated the 6th of this Instant humbly offering to His Majesty for His Royal Approbation a Draught of a Commission prepared by the Lords Commissrs for Trade and Plantations for Montagu Wilmot Esqr to be Captain General and Governor in Chief of His Majestys Province of Nova Scotia in America—His Majesty taking &cs ut Antea.—

ADDITIONAL CLAUSES IN NEW COMMISSIONS.[2]

4th November 1763
Present
The Kings Most Excellent Majesty &c. &c—

Georgia Order approving an Instrument for extending the Southern Boundary Line—

Whereas there was this day read at the Board a Report of His Majestys Attorney General dated the 29th of last Month together with a Draught of an Instrument prepare'd by him revoking such part and so much of the Commission appointing

[1] Copied from Privy Council Register. Geo. III., p. 117.
[2] Copied from Privy Council Register. Geo. III., p. 139.

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The Comn to Wright revoking that dated 4. May 1761 is dated 24 January 1764

James Wright Esqr to be Governor of the Province of Georgia bearing date the 4th day of May 1761, which doth any way relate to or concern the Limits and Bounds of the said Province, and appointing new* Bounds and Limits to the said Province whereby the Southern Boundary Line is extended to the most Southern Stream of a certain River called St Mary—

In the Comn of 20 Jany 1764 quoting that revoked the River Alatamaha is mentioned as the Southern boundary.

His Majesty taking the same into Consideration, is pleased with the Advice of His Privy Council to approve of the said Draught of an Instrument (which is hereunto annexed) and to Order, as it is hereby Ordered, that the Right Honourable the Earl of Halifax One of His Majestys Principal Secretarys of State do cause a Warrant to be prepared for His Majesty's Royal Signature in order to pass the said Instrument under the Great Seal of Great Britain.—

4th Nov. 1763 New Commicons Lettr from the Atty Genl. for making an Addition to the Clause relative to Granting Lands. Refd to a Commee

Upon reading this day at the Board a Letter from Mr Attorney General to the Right Honourable the Earl of Halifax, one of His Majestys Principal Secretaries of State, praying that an Addition should be made to the Clause in the Commissions for the Governors of Quebec, Grenada, East Florida, and West Florida relative to the granting Lands—It is Ordered by His Majesty in Council that the said Letter and addition (which are hereunto annexed) Be, and they are hereby Referred to the Right Honourable the Lords of the Committee of Council for Plantation Affairs to consider the same and Report their Opinion thereupon to His Majesty at this Board

At the Council Chamber Whitehall the 11th day of November 1763—

By the Right Honourable the Lords of the Committee of Council for Plantation Affairs—

Commissions Committee Report for making an Addition to the clause in the Commicons for the Govrs of Nova Scotia, Quebec, East Florida, West Florida and the Grenada's relative to the Granting Lands—

Your Majesty having been pleased by Your Order in Council of the 4th Instant to referr unto this Committee a Letter from Mr Attorney General to the Right Honourable the Earl of Halifax one of Your Majestys Principal Secretarys of State proposing that the following Addition may be made to the Clause in the Commissions (approved by Your Majesty in Council on the 7th of last Month) for the Governors of Quebec, Grenada, East Florida, West Florida, and Nova Scotia relative to the Granting Lands—Vizt

"Which Instructions, or any Articles contained therein, "or any such Order made in Our Privy Council, so far as the same "shall relate to the Granting of Lands, as aforesaid, shall from "time to time, be published in the Province, and entered of

*The boundaries here described agree with those given in Wright's Commission of 24 Jan. 1764.

"Record, in like manner as the said Grants themselves are "hereby directed to be Entered."—

The Lords of the Committee in Obedience to Your Majestys said Order of Reference this day took the said Letter and addition into their Consideration, and being of Opinion that the same is proper and necessary, do therefore agree humbly to Report, that it may be adviseable for Your Majesty to cause the said Addition to be inserted in all the aforementioned Commissions accordingly.

11th Nov. 1763—

Instrucons Committee Report upon Draughts of Instrucons for the Govrs of Quebec, East Florida, West Florida and the Grenada's.

The Lords of the Committee, in Obedience to Your Majestys said Order of Reference, this day took the said Representation and Draughts of Instructions in their Consideration, and finding that the said Draughts of General Instructions contain all those Articles usually given to the Governors of Your Majesty's American Colonies and Islands respectively, which are necessary for, and applicable to these New Governments, together with such others as appear to tend to promote the Settlement and Improvement of them, And that the Draughts of Instructions for the observance of the Acts of Parliament for the encouragement and Regulation of Trade and Navigation are exactly conformable to the Instructions given to the Governors of Your Majestys other American Colonies and Plantations.— Their Lordships do therefore agree humbly to lay the said Draughts of Instructions before Your Majesty for Your Royal Approbation.

AT THE COURT AT ST. JAMES'S

the 14th day of Novemr 1763

Present

The King's most Excellent Majesty &c. &c.

Commissions Order for making an Addition to the Clause in the new Govrs Commicons relative to the Granting Lands Appd

Upon reading at the Board a Report from the Right Honourable the Lords of the Committee of Council for Plantation Affairs dated the 11th of this Instant upon considering a Letter from Mr Attorney General to the Right Honourable the Earl of Halifax One of His Majesty's Principal Secretaries of State proposing that the following Addition may be made to the Clause in the Commissions (approved by His Majesty in Council on the 7th of last Month) for the Governors of Quebec, Grenada, East Florida, West Florida and Nova Scotia relative to the granting Lands—Vizt

"Which Instructions, or any Articles &c—"

And the Lords of the Committee being of opinion that the said Addition is proper and necessary to be made in the said Commissions, His Majesty this day took the same into Consideration, and was pleased with the Advice of His Privy Council to approve thereof and to order as it is hereby Ordered, that the Right Honourable the Earl of Halifax one of His Majesty's Principal Secretarys of State, do cause the said Addition to be inserted in all the aforementioned Commissions accordingly—

COMMISSION OF CAPTAIN-GENERAL & GOVERNOR IN CHIEF OF THE PROVINCE OF QUEBEC.[1]

GEORGE THE THIRD by the grace of God of Great Britain France and Ireland King Defender of the Faith and so forth; To our Trusty and well beloved James Murray Esquire, Greeting.

Commission to be Captain-General and Governor in chief of the Province

We, reposing especial trust and Confidence in the prudence, Courage and loyalty of you the said James Murray, of our especial grace, Certain Knowledge and meer motion, have thought fit to Constitute and appoint, and by these presents, do Constitute and appoint you, the said James Murray to be our Captain General and Governor in Chief in and over our Province of Quebec in America.

Boundaries of the Province

Bounded on the Labrador Coast by the River Saint John, and from thence by a line drawn from the head of that River through the lake Saint John to the south end of Lake Nepissin, from whence the said line Crossing the River Saint Lawrence and the lake Champlain in Forty five Degrees of Northern Latitude, passes along the high lands which Divide the Rivers that empty themselves into the said River Saint Lawrence from those which fall into the sea, and also along the north Coast of the Bay des Chaleurs and the Coast of the Gulfts of Saint Laurence to Cape Rosieres, and from thence, Crossing the mouth of the River Saint Lawrence by the west end of the Island of Anticosty terminates at the aforesaid River Saint John.

The Governor is to act according to the powers and directions of this Commission & according to the Kings Instructions

Together with all the Rights members, and appurtenances whatsoever thereunto belonging.

And we, do hereby require and Command you to do and execute all things in due manner that shall belong to your said Command and the Trust we have reposed in you, according to the several powers and Directions granted or appointed You by this present Commission and the instructions and authorities herewith given unto you, Or by such other powers instructions or authorities as shall at any time hereafter be granted

[1] Copied from the Register of Commissions in the office of the Secretary of State, Canada.

or appointed under our Signet and Sign Manual, or by our Order in our Privy Council, and according to such reasonable laws and statutes as shall hereafter be made and agreed upon by you with the advice and Consent of the Council and Assembly of our said Province under your Government, in such manner and form as is herein after expressed.

Oaths to be taken by the Governor

And our will and pleasure is that You the said James Murray do after the publication of these our Letters patent, and after the appointment of our Council for our said province in such manner and form as prescribed in the instructions which you will herewith receive, in the first place take the oaths appointed to be taken by an act passed in the first Year of the Reign of King George the First Intitled (an act for the further security of His Majesty's Person and Government, and the succession of the Crown, in the Heirs of the late Princess Sophia, being protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) as also that you make and subscribe the Declaration mentioned in an act of Parliament made in the twenty-fifth Year of the Reign of King Charles the Second Intitled (an act for preventing Damages which may happen from Popish recusants) and likewise that you take the oath usually taken by our Governors in other Colonies for the due execution of the Office & Trust of our Captain General and Governor in Chief in and over our said province, and for the due & impartial administration of justice; and further that you take the oath required to be taken by Governors of the Plantations to do their utmost that the several laws relating to Trade and Plantations be duly observed: which said oaths and Declarations our Council of our said Province, or any three of the members thereof, have hereby full power and authority, and are hereby required to tender and administer to You.—

Those appointed by 1. Geo. 1.

Declaration against popery Stat 25 Car: 2d

Oath of Office

Oath to observe the laws relating to Trade and Plantations.

Oaths to be taken by the Counsellors & Lieut[t] Governors of Montreal & Trois Rivieres

All which being duly performed you shall yourself administer to each of the members of our said Council, and to the Lieutenant Governors of Montreal & Trois Riviéres the said Oaths, mentioned in the said Act Intitled (an act for the further Security of His Majesty's person & Government and the succession of the Crown in the Heirs of the late Princess Sophia, being protestants, and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) and also Cause them to make and subscribe the aforementioned Declaration, and also shall administer unto them the usual Oaths, for the due execution of their places and trust.

Power to administer or to authorize

And We do further give and grant unto you the said James Murray full power and authority from time to time, and at any time hereafter by Yourself, or by any other to be authorized by

others to administer to any person in the Province the Oaths appointed by Stat 1. Geo: I.

you in this behalf, to administer and give the Oaths mentioned in the said act (for the further security of His Majesty's Person and Government and the Succession of the Crown in the Heirs of the late Princess Sophia being Protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) to all and every such person and persons as you shall think fit, who shall at any time or times pass into our said Province or shall be resident or abiding there.

Power to keep & use the publick seal

And we do hereby authorize and Impower you to keep and use the Publick seal, which will herewith be delivered to you, or shall be hereafter sent to you, for sealing all things whatsoever that shall pass the Great seal of our said Province.

Power to call an assembly of the Freeholders

And we, do hereby give and grant unto you the said James Murray full power and authority with the advice and Consent of our said Council to be appointed as aforesaid, so soon as the Situation and circumstances of our said Province under your Government will admit thereof, and when & as often as need shall require, to summon and call General Assemblies of the Freeholders and Planters, within your Government, in such manner as you in your Direction shall judge most proper, or according to such further powers, Instructions, and authorities as shall be at any time hereafter granted or appointed you under our Signet and Sign Manual, or by our Order in Our Privy Council.

The Members of such assembly shall take the Oaths appointed by Stat: 1 Geo: I;

and the declaration against popery

And our will and pleasure is, That the persons thereupon duly Elected by the Major Part of the Freeholders of the respective parishes, or precincts, and so returned, shall before their sitting take the oath mentioned in the said act intitled (an act for the Further security of his Majesty's person & Government and the succession of the Crown in the Heirs of the late princess Sophia being protestants, and for extinguishing the hopes of the pretended Prince of Wales and his open and secret abettors) as also make and subscribe the forementioned declaration: Which oaths & declaration you shall Commissionate fit persons under the publick seal of that our province, to tender and administer unto them and untill the same shall be so taken and subscribed, no person shall be Capable of sitting though Elected.

power to make Laws

And we do hereby declare that the persons so Elected & Qualified shall be called the Assembly of that our province of Quebec; and that you the said James Murray, by & with the advice and Consent of our said Council and Assembly, or the major part of them, shall have full power & authority, to make, Constitute or Ordain, Laws Statutes & ordinances for the publick peace, Welfare, & good Government of our said province, and of the people and Inhabitants thereof, and such others as

shall resort thereunto and for the benefit of us our heirs & successors: which said Laws Statutes and Ordinances are not to be repugnant, but as near as may be agreeable, to the laws & Statutes of this our Kingdom of Great Britain.

not repugnant to the Laws of Great Britain

Provided that all such Laws Statutes and Ordinances of what nature or Duration soever they shall be within three months or sooner after the making thereof, Transmitted to us, under our seal of our said province for our approbation or disallowance of the same, as also duplicates thereof by the next Conveyance.—

The Laws so made to be transmitted to England within three months

And in Case any, or all of the said Laws Statutes and Ordinances not before Confirmed by us, shall at any time be disallowed and not approved, and so signified by us, our Heirs, and Successors, under our, or their Signet and sign Manual, or by order of our, or their privy Council, unto you the said James Murray or to the Commander in Chief of our said Province for the time being; Then such and so many of the said Laws, Statutes, and Ordinances, as shall be so disallowed, and not approved, shall from thence forth cease determine and become utterly void and of no effect, anything to the contrary thereof notwithstanding

If disallowed by the King they shall thenceforth become void

And to the end that nothing may be passed or done by our said Council or Assembly, to the prejudice of us, our Heirs and Successors, We will and ordain that you the said James Murray, shall have, and enjoy a Negative Voice in the making and passing all laws, Statutes and ordinances as aforesaid; and that you shall and may likewise from time to time, as you shall judge necessary, adjourn, prorogue or dissolve all General assemblies as aforesaid

The Governor shall have a negative voice against both Council and Assembly

And We, do by these presents give and grant unto you, the said James Murray, full power and authority, with the advice & Consent of our said Council, to Erect, Constitute and Establish, such and so many Courts of Judicature and publick Justice within our said province under your Government as you & they shall think fit and necessary, for the hearing & determining of all causes as well Criminal as Civil according to Law and Equity and for awarding execution thereupon, with all reasonable & necessary powers, authorities, Fees, and priviledges belonging thereunto: as also to appoint and commissionate fit persons in the several parts of your Government to administer the oaths mentioned in the aforesaid act Intitled (an act for the further security of His Majesty's person & Government, and the succession of the Crown in the Heirs of the late Princess Sophia being protestants and for extinguishing the hopes of the pretended Prince of Wales, and his open and secret abettors) as also to Tender & administer the aforesaid declaration to such persons belonging to the said Courts as shall be obliged to take the same.

power with the Consent of the Council to Erect Courts of Judicature

power to Commissionate fit persons to administer the Oaths appointed by Stat: 1. Geo: I, & the declaration agt popery to persons belonging to such Courts

Power to appoint Judges, Commissrs of Oyer & Terminer, Justices of the peace, Sheriffs & other officers of Justice—

And We do hereby grant unto you full power and authority to constitute and appoint judges, and in Cases requisite Commissioners of Oyer & Terminer, Justices of the peace, Sherriffs and other necessary Officers and ministers in our said Province for the better administration of Justice, and putting the Laws in Execution; and to administer or cause to be administered unto them such oath or Oaths as are usually given for the due Execution and performance of Offices & places and for clearing the truth in Judicial Causes.

power to pardon Crime

And We do hereby give and grant unto you full power and authority, when you shall see cause, or shall Judge any Offender or Offenders in Criminal matters, or for any Fines or Forfeitures due unto us, fit Objects of our Mercy, to pardon all such offenders and remit all such offences, Fines and Forfeitures; Treason and Willful murder only excepted; In which cases you shall likewise have power upon Exterordinary Occasions to Grant Reprives to the offenders untill and to the intent our Royal pleasure may be Known therein.

power of Collating to Ecclesiastical Benefices

And We do by these presents Give and Grant unto you full power and authority to Collate any person or persons to any Churches, Chappels, or other Ecclesiastical Benefices within our said province, as often as any of them shall happen to be void.

power to levy Troops and Employ them against Enemies pirates & Rebels.

And We do hereby give and grant unto you, the said James Murray, by yourself, or by your Captains and Commanders by you to be authorized, full power & Authority to Levy, Arm, Muster Command, and Employ all persons whatsoever, residing within our said province, and as occasion shall serve them to march, Embark, or Transport, from one place to another for the resisting and withstanding of all enemies, pirates, & Rebels both at land and sea: and to Transport such Forces to any of our Plantations in America, if necessity shall require for Defence of the same against the invasion or attempts of any of our Enemies; and such Enemies, pirates & Rebels, if there should be occasion, to pursue and prosecute in or out of the limits of our said province; and if it shall so please God, them to vanquish, apprehend and take; and being taken, according to law to put to death, or Keep and preserve alive, at your discretion: and to execute Martial Law in time of Invasion, War, or other times, when by Law it may be executed and to do and execute all and every other thing and things which to our Captain General & Governor in Chief doth, or of right ought to belong.

And to execute Martial Law in time of War

power with the Consent of the Council, to

And We do hereby give and grant unto you full power and authority, by and with the advice and Consent of our said Council, to Erect, Raise, and build in our said province, such

build Forts & Castles

and so many Forts, Platforms, Castles, Cities, Borroughs, Towns, and Fortifications, as you, by the advice aforesaid, shall judge necessary: and the same or any of them, to Fortify and Furnish with Ordnance, ammunition, and all sorts of arms, fit and necessary for the security & defence of our said province: And by the advice aforesaid, the same again or any of them, to Demolish or Dismantle as may be most Convenient,—

And to Fortify & Furnish them with Arms &c., and to Demolish or Dismantle them.—

power in time of War, to appoint Captains and other Officers of ships, and to grant them Commissions to execute the Law Martial according to the Stat: 22 Geo.: 2.

And for as much as divers Mutinies & Disorders may happen by persons Shipped and Employed at sea during the time of War: And to the end, that such as shall be shipped and Employed at sea during the time of War may be better governed and ordered: We hereby give and grant unto you the said James Murray, full power and authority to Constitute and appoint Captains, Lieutenants, Masters of Ships, and other Commanders & officers, Commissions to execute the Law Martial during the time of War, according to the Directions of an act passed in the Twenty Second year of our late Royal Grand Father, intitled (an act for amending Explaining and Reducing into an act of Parliament, the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea) and to use such proceedings, authorities, punishments, Corrections and Executions upon every Offender or Offenders, who shall be mutinous, Seditious, Disorderly, or any way unruly either at Sea or during the time of their abode or residence in any of the ports, Harbours, or Bays in our said Province, as the Case shall be found to require, according to Martial Law and the said Directions during the time of War as aforesaid.—

This shall not affect any seamen or other persons on board ships Commissioned by the Admiralty, when they Commit offences either on the High Sea, or in any River, Creek or Haven.

Provided that nothing herein Contained shall be Construed to the enabling you, or any by your authority, to hold plea, or have any Jurisdiction, of any offence, Cause, matter or thing, Committed or done, upon the High sea, or within any of the havens, Rivers, or Creeks of our said province, under Your Government, by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or person Whatsoever, who shall be in actual service and pay, in or on board any of our ships of War, or other vessels, acting by immediate Commission or Warrant from our Commissioners for executing the office of High Admiral of Great Britain, or from our high Admiral of Great Britain for the time being; under the seal of our Admiralty. But that such Captain, Commander, Lieutenant, Master, Officer, Seaman, or Soldier, or other person, so offending shall be left to be proceeded against and Tried, as their offences shall require, either by Commission under our Great seal of this Kingdom, as the Statute of the Twenty eight of Henry the Eight directs, or by Commission from our said Commissioners for Executing

But these persons shall be tried either by Commissions under the Great seal of Great

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Britain, according to the Stat. 28 Hen 8; or by Commission from the admiralty according to the Stat 22 Geo. 2.

the Office of High Admiral of Great Britain, or from our High Admiral of Great Britain for the time being according to the aforementioned Act Intitled (an act for amending, explaining and reducing into one act of parliament, the Laws relating to the Government of His Majesty's Ships, Vessels, and Forces by Sea) and not otherwise.—

But for offences Committed on Shore, these persons shall be tried & punished according to laws of the place where the offence shall be committed.

Provided Nevertheless that all disorders and misdemeanors Committed on shore by any Captain, Commander, Lieutenant, Master, Officer, Seaman, Soldier, or other persons whatsoever belonging to any of our Ships of War, or other Vessels acting by immediate Commission or Warrant from our Commissioners for executing the Office of High Admiral of Great Britain, or from our High admiral of Great Britain for the time being; under the seal of our admiralty, may be Tried and punished, according to the laws of the place where any such disorders, offences, and misdemeanors shall be Committed on shore, notwithstanding such offender be in our actual service, and Born in our pay on board any such our ships of war, or other vessels acting by immediate Commission or Warrant from our Commissioners for Executing the Office of High Admiral of Great Britain, or from our Admiral of Great Britain for the time being as aforesaid; so as he shall not receive any protection for the avoiding of Justice for such offence Committed on shore from any pretence of his being employed in our service at sea.

power with the Consent of the Council to dispose of publick money for the support of the Government.

And our Further will & pleasure is that all publick monies raised, or which shall be raised, by any act hereafter to be made within our said province, be issued out by Warrants from you, by and with the advice & Consent of our Council as aforesaid for the support of the Government & not otherwise.—

power with the Consent of the Council to grant lands.

And We likewise give and grant unto you full power and authority, by and with the advice & Consent of our said Council to settle and agree with the inhabitants of our said province for such lands, Tenements and Hereditaments as now are or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms, and under such moderate Quit Rents, services, and acknowledgements to be thereupon reserved unto us, as you with the advice aforesaid shall think fit: which said grants are to pass and be sealed by our publick seal of our said province; and being entered upon Record by such officer or Officers as shall be appointed thereunto, shall be good and effectual in the Law against us, our Heirs and Successors.—

The grants to be under the Publick seal, and to be registered.

These grants must be made conformably to the Kings Instructions.

Provided the same be conformable to the Instructions herewith delivered to you, or to such other instructions as may hereafter be sent to you under our Signet & Sign Manual

or by our order in our Privy Council, Which instructions, or any articles Contained therein, or any such order made in our Privy Council, so far as the same shall relate to the Granting of Lands as aforesaid, shall from time to time be published in the province and Entered of record, in like manner as the Said Grants themselves are hereby Directed to be entered.

And these Instructions relating to the granting of Lands shall be published.

And We do hereby give you the said James Murray full power & authority to order Fairs, Marts, & Markets, and also such and so many Ports, Harbours, Bays, Havens, and other places for the conveniency and Security of shipping, and for the better loading & unloading of goods & Merchandizes, in such and so many places as, by and with the advice and Consent of our said Council, shall be thought fit and necessary.—

power with the Consent of the Council, to appoint fairs & markets, harbours & wharfs.

And We do hereby require & Command all Officers and Ministers Civil & Military, and all other inhabitants of our said Province, to be obedient, aiding, and assisting unto you, the said James Murray in the Execution of this our Commission, and of the powers & Authorities therein Contained, and in Case of your Death or Absence from our said province & Government, to be obedient, aiding and assisting as aforesaid to the Commander in Chief for the time being, to whom we do therefore by these presents, give and grant all and singular the powers and Authorities herein Granted, to be by him Executed & Enjoyed during our pleasure or untill your Arrival within our said province.

All officers Civil & military, and all other inhabitants of the province, are to be aiding and assisting to the Governor in the execution of his Commission & in case of the death or absence of the Governor, to the Commander in Chief for the time being.

And in Case of your Death or absence from our said province, our will and pleasure is, that our Lieutenant Governor of Montreal or Trois Rivières, According to the priority of their Commissions of Lieutenant Governors, do Execute our said Commission with all the powers and authorities therein mentioned as aforesaid, and in Case of the Death or absence of our Lieutenant Governor of Montreal and Trois Rivières from our said province, and that there shall be no person within our said province appointed by us to be Lieutenant Governor or Commander in Chief of our said province, Our Will and pleasure is, that the Eldest Counsellor, who shall be at the time of your Death or absence, residing within our said province, shall take upon him the administration of the Government, and Execute our said Commission and Instructions and the several powers and Authorities therein Contained, in the same manner to all intents and purposes, as other our Governor or Commander in Chief should or ought to do in Case of your Absence, or untill your Return, or in all Cases untill our further pleasure be Known therein.—

Who shall be Commander in Chief of the Province in case of the death or absence of the Governor.

This Office of Captain General and Governor in Chief to be held only during the Kings pleasure.

And We do hereby declare, ordain and appoint, that you the said James Murray, shall and may hold Execute and Enjoy the Office & place of our Captain General, and Governor in Chief in and over our said Province of Quebec, and all the Territories depending thereon, with all and singular the powers and authorities hereby Granted unto you, for & during our will and pleasure. In Witness Whereof, We have Caused these our Letters to be made patent, Witness our Self at Westminister the Twenty first Day of November, in the fourth Year of our Reign.

By Writ of privy Seal
(Signed)
YORKE & YORKE.

Recorded at the Treasury Chambers Whitehall the 28th Day of November 1763
(Signed)
T. TOMKYNS

Recorded in the Registry Office in Quebec the 7th Day of June 1766
(Signed),
J. GOLDFRAP D.Reg

INSTRUCTIONS TO GOVERNOR MURRAY.[1]

GEORGE R.

(L.S.)

Instructions to Our Trusty and Wellbeloved JAMES MURRAY, ESQ.r, Our Captain General and Governor in Chief in and over Our Province of Quebec in America, and of all Our Territories dependent thereupon. Given at Our Court at St James's the Seventh Day of December 1763 in the Fourth Year of Our Reign.

1. With these Our Instructions You will receive Our Commission under Our Great Seal of Great Britain, constituting You Our Captain General and Governor in Chief in and over Our Province of Quebec in America, bounded on the Labrador Coast by the River St John, and from thence by a Line drawn from the Head of that River through the Lake St John to the South End of the Lake Nipissin; from whence the said Line crossing the River St Lawrence and the Lake Champlain in forty five Degrees of North Latitude, passes along the High Lands, which divide the Rivers that empty themselves into the said River St Lawrence, from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs and the Coast of the Gulph of St Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St Lawrence by the West

[1] Copy from Public Record Office, Col. O. Plantations, 1763-1766: in Canadian Archives, M, 230, p. 1.

End of the Island of Anticosti, terminates at the aforesaid River of St John: You are therefore to take upon You the Execution of the Office and Trust We have reposed in You, and the Administration of Government, and to do and execute all Things in due manner that shall belong to your Command, according to the several Powers and Authorities of Our said Commission under Our Great Seal of Great Britain, and these Our Instructions to You, or according to such further Powers and Instructions as shall at any Time hereafter be granted or appointed You under Our Signet and Sign Manual, or by Our Order in Our Privy Council.

2. And You are, with all due Solemnity, to cause Our said Commission to be published at Quebec, which We do appoint to be the Place of your Residence and the principal Seat of Government, in the Districts of Montreal and Trois Rivieres, and in such other parts of your Government as You shall think necessary and expedient, as soon as possible; which being done, You are in the next place to nominate and establish a Council for Our said Province, to assist You in the Administration of Government, which Council, is, for the present, to be composed of the Persons, whom We have appointed to be Our Lieutenant Governors of Montreal and Trois Rivieres, Our Chief Justice of Our said Province, and the Surveyor General of Our Customs in America for the Northern District, and Eight other Persons to be chosen by You from amongst the most considerable of the Inhabitants of, or Persons of Property in Our said Province; which Persons so nominated and appointed by You as aforesaid (Five of which We do hereby appoint to be a Quorum), are to be Our Council for Our said Province, and to have and enjoy all the Powers, Privilege and Authority usually exercised and enjoyed by the Members of Our Councils in Our other Plantations, and also such others as are contained in Our said Commission under Our Great Seal of Great Britain, and in these Our Instructions to You; and they shall meet together at such Time or Times, Place or Places, as You, in your Discretion, shall think necessary and expedient: It is nevertheless Our Will and Pleasure, that the said Chief Justice, or Surveyor General of Our Customs, shall not be capable of taking the Administration of the Government upon the Death or Absence of You Our Governor, or the Commander in Chief for the Time being.

3. And You are forthwith to call Our said Council together, or such of them as can be conveniently assembled, and to cause Our said Commission to You to be read at such Meeting; which being done, You shall then take yourself, and also administer to Our Lieutenant Governors respectively, and to the Members of Our said Council, the Oaths mentioned in an Act, passed in the first Year of the Reign of His Majesty King George the First, intituled, "An Act for the further Security of His Majesty's Person "and Government, and the Succession of the Crown in the Heirs of the "late Princess Sophia, being Protestants, and for extinguishing the Hopes "of the pretended Prince of Wales, and his open and secret Abettors;"—as also to make and subscribe, and cause them to make and subscribe the

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Declaration mentioned in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second, intituled, "An Act for preventing Dangers which may happen from Popish Recusants." And You and every one of Them are likewise to take an Oath for the due Execution of your and their Places and Trusts, with regard to your and their equal and impartial Administration of Justice;—and You are also to take the Oath required by an Act passed in the seventh and eighth Years of the Reign of King William the Third to be taken by Governors of Plantations, to do their utmost that the Laws relating to the Plantations be observed.

4. And You are forthwith to transmit unto Our Commissioners for Trade and Plantations, in order to be laid before Us for Our Approbation or Disallowance, the Names of the Members of the Council so to be appointed by You, as aforesaid; as also a List of the Names and Characters of Eight other Persons in Our said Province, whom You judge properly qualified to serve in that Station; to the End that, if any of the Persons appointed by You, as aforesaid, shall not be approved and confirmed by Us, under Our Signet and Sign Manual, the Place or Places of such Persons so disapproved may be forthwith supplied from the said List, or otherwise, as We shall think fit.

5. And if it shall at any time happen, that, by the Death, Departure out of Our said Province, Suspension of any of Our said Councillors, or otherwise, there shall be a Vacancy in Our said Council, Our Will and Pleasure is, that You signify the same to Our Commissioners for Trade and Plantations by the first Opportunity, that We may, under Our Sign Manual, constitute and appoint Others in their Stead; to which End, You are, whenever such Vacancy happens, to transmit to Our said Commissioners, in order to be laid before Us, the Names of three or more Persons, Inhabitants of Our said Province, whom You shall esteem best qualified for such Trust.

6. But that Our Affairs may not suffer for want of a due Number of Councillors, if ever it shall happen, that there be less than Seven residing in Our said Province, We do hereby give and grant unto You, the said James Murray, full Power and Authority to chuse as many Persons out of the principal Inhabitants of Our said Province, as will make up the full Number of the Council to be Seven, and no more; which Persons, so chosen and appointed by You, shall be, to all Intents and Purposes, Councillors in Our said Province, till either they shall be confirmed by Us, or, by the Nomination of Others by Us, under Our Signet and Sign Manual, Our said Council shall have Seven or more Persons in it.

7. And it is Our Will and Pleasure, that You do, and You are hereby authorized and impowered to suspend and remove any of the Members of Our said Council from sitting, voting, and assisting therein, if You shall find just Cause for so doing; (and also in like manner to suspend any of Our Lieutenant Governors of Our said Province from the Execution of their Commands), and to appoint Others in their Stead, until Our

Pleasure shall be known, It is nevertheless Our Will and Pleasure that You do not suspend or remove any of the Lieutenant Governors of Our said Province respectively, or any of the Members of Our Council, when they shall have been confirmed by Us, as aforesaid, without good and sufficient Cause, nor without the Consent of the Majority of the said Council, signified in Council, after due Examination of the Charge against such Lieutenant Governor, or Councillor, and his Answer thereunto; and in case of Suspension of any of them, You are to cause your Reasons for so doing, together with the Charges and Proofs against such Person, and his Answer thereunto, to be duly entered upon the Council Books, and forthwith to transmit Copies thereof to Our Commissioners for Trade and Plantations, in order to be laid before Us; nevertheless if it should happen, that You should have Reasons for suspending any of the said Persons, not fit to be communicated to the Council, You may in that Case suspend such person without the Consent of said Council; but You are thereupon immediately to send to Our Commissioners for Trade and Plantations, in order to be laid before Us, an Account of your Proceedings therein, together with your Reasons at large for such Suspension, as also your Reasons at large for not communicating the same to the Council; and Duplicates thereof by the next Opportunity.

8. Whereas We are sensible, that effectual Care ought to be taken to oblige the Members of the Council to a due Attendance therein, in order to prevent the many Inconveniencies that may happen from the Want of a Quorum of the Council, to transact Business as Occasion may require; It is Our Will and Pleasure, that if any of the Members of Our said Council shall hereafter absent themselves from the said Province, and continue absent above the Space of six Months together, without Leave from You, or from Our Commander in Chief of Our said Province for the time being, first obtained under your or his hand and seal; or shall remain absent for the Space of one Year, without Our Leave given them under Our Royal Signet and Sign Manual, their Place or Places in the said Council shall immediately thereupon become Void; and that, if any of the Members of Our said Council, then residing in the Province under your Government, shall hereafter wilfully absent themselves, when duly summoned, without a just and lawful Cause, and shall persist therein after Admonition, You suspend the said Councillors so absenting themselves, till Our further Pleasure be known, giving Us timely Notice thereof: And We do hereby will and require You, that this Our Royal Pleasure be signified to the several Members of Our Council aforesaid, and entered in the Council Books of the Province under your Government, as a standing Rule—

9. You are forthwith to communicate such and so many of these Our Instructions to Our said Council, wherein their Advice and Consent are mentioned to be requisite; as likewise all such others, from time to time, as You shall find convenient for Our Service to be imparted to them.

10. You are to permit the Members of Our said Council to have and enjoy Freedom of Debate and Vote, in all Affairs of public Concern that may be debated in Council.

11. And whereas it is directed, by Our Commission to You under Our great Seal, that so soon as the Situation and Circumstances of Our said Province will admit thereof, You shall, with the Advice of Our Council, summon and call a General Assembly of the Freeholders in Our said Province; You are therefore, as soon as the more pressing Affairs of Government will allow to give all possible attention to the carrying this important Object into Execution: But, as it may be impracticable for the present to form such an Establishment, You are in the mean time to make such Rules and Regulations, by the Advice of Our said Council, as shall appear to be necessary for the Peace, Order and good Government of Our said Province, taking Care that nothing be passed or done, that shall any ways tend to affect the Life, Limb or Liberty of the Subject, or to the imposing any Duties or Taxes; and that all such Rules and Regulations be transmitted to Us, by the first Opportunity after they are passed and made, for Our Approbation or Disallowance. And it is Our Will and Pleasure, that when an Assembly shall have been summoned and met, in such manner as You, in your Discretion, shall think most proper, or as shall be hereafter directed and appointed, the following Regulations be carefully observed in the framing and passing all such Laws, Statutes and Ordinances, as are to be passed by You, with the Advice and Consent of Our said Council and Assembly; Viz[t]

That the Style of Enacting the said Laws, Statutes and Ordinances be by the Governor, Council, and Assembly, and no other;—

That each different Matter be provided for by a different Law, without including in one and the same Act such Things as have no proper Relation to each other;—

That no Clause be inserted in any Act or Ordinance, which shall be foreign to what the Title of it imports; and that no perpetual Clause be part of any temporary Law;—

That no Law or Ordinance whatever be suspended, altered, continued, revived, or repealed by general Words; but that the Title and Date of such Law or Ordinance be particularly mentioned in the enacting part;—

That no Law or Ordinance, respecting private Property, be passed without a Clause suspending it's Execution, until Our Royal Will and Pleasure is known; nor without a Saving of the Right of Us, Our Heirs and Successors, and of all Bodies politic and corporate, and of all other Persons, except such as are mentioned in the said Law or Ordinance, and those claiming by, from, and under them; and before such Law or Ordinance is passed, Proof must be made before You, in Council, and entered in the Council Books, that public Notification was made of the Party's Intention to apply for such Act in the several Parish Churches, where the Lands in Question lie, for three Sundays at least successively

before any such Law or Ordinance shall be proposed; and You are to transmit, and annex to the said Law, or Ordinance, a Certificate under your hand, that the same passed through all the Forms abovementioned;—

That in all Laws or Ordinances for levying Money, or imposing Fines, Forfeitures or Penalties, express mention be made, that the same is granted or reserved to Us, Our Heirs and Successors, for the public Uses of the said Province, and the Support of the Government thereof, as by the said Law, or Ordinance shall be directed; and that a Clause be inserted, declaring, that the Money arising by the Operation of the said Law, or Ordinance shall be accounted for unto Us in this Kingdom, and to Our Commissioners of Our Treasury, or Our High Treasurer for the time being, and audited by Our Auditor General of Our Plantations, or his Deputy;—

That all such Laws, Statutes and Ordinances be transmitted by You within three Months after their passing, or sooner, if Opportunity offers, to Our Commissioners for Trade and Plantations; that they be fairly abstracted in the Margents, and accompanied with very full and particular Observations upon each of them, that is to say, whether the same is introductive of a new Law, declaratory of a former Law, or does repeal a Law then before in being; and you are also to transmit, in the fullest manner, the Reasons and Occasion for enacting such Laws, or Ordinances, together with fair Copies of the Journals of the Proceedings of the Council and Assembly, which You are to require from the Clerks of the said Council and Assembly.

12. And to the end that nothing may be passed or done to the Prejudice of the true Interests of this Our Kingdom, the just Rights of Us, Our Heirs and Successors, or the Property of Our Subjects; it is Our express Will and Pleasure, that no Law whatever, which shall in any wise tend to affect the Commerce or Shipping of this Kingdom, or which shall any ways relate to the Rights and Prerogative of Our Crown, or the Property of Our Subjects, or which shall be of an unusual or extraordinary Nature, be finally ratified and assented to by You, until You shall have first transmitted a Draught of such Law, and shall have received Our Directions thereupon, unless You take care, that a Clause be inserted, suspending and deferring the Execution thereof, until Our Pleasure is known concerning the same.

13. And whereas Laws have formerly been enacted in several of Our Plantations in America for so short a time, that Our Royal Assent or Refusal thereof could not be had before the Time, for which such Laws were enacted, did expire; You shall not give your Assent to any Law, that shall be enacted for a less Time than two Years, except in Cases of imminent Necessity, or immediate temporary Expediency; and You shall not reenact any Law, to which Our Assent shall have been once refused, without express Leave for that purpose first obtained from Us, upon a full Representation by You to be made to Our Commissioners for Trade and Plantations, in order to be laid before Us, of the Reasons and Necessity for passing

such Law; nor give your Assent to any Law for repealing any other Law, which shall have passed in your Government, and shall have received Our Royal Approbation, unless You take Care that there be a Clause inserted therein, suspending and deferring the Execution thereof, until Our Pleasure shall be known concerning the same.

14. And We do particularly require You to take Care, that fair Books of Accounts of all Receipts and Payments of all Publick Money be duly kept, and the Truth thereof attested upon Oath; and that all such Accounts be audited, and attested by Our Auditor General of Our Plantations, or his Deputy, who is to transmit Copies thereof to Our Commissioners of Our Treasury, or to Our High Treasurer, for the time being; and that You do, every half Year or oftener, send another Copy thereof, attested by yourself, to Our Commissioners for Trade and Plantations, and Duplicates thereof by the next Conveyance; in which Books shall be specified every particular Sum raised or disposed of, together with the Names of the Persons to whom any Payment shall be made; to the end We may be satisfied of the right and due Application of the Revenue of Our said Province, with the Probability of the Increase or Diminution of it under every Head and Article thereof.

15. And whereas the Members of several Assemblies in the Plantations have frequently assumed to themselves Privileges no ways belonging to them, especially of being protected from Suits at Law during the Term they remain of the Assembly, to the great Prejudice of their Creditors and the Obstruction of Justice; and some Assemblies have presumed to adjourn themselves at Pleasure, without Leave from Our Governor first obtained; and Others have taken upon them the sole framing of Money Bills, refusing to let the Council alter or amend the same; all which Practices are very detrimental to Our Prerogative; If therefore You find, that the Members of the Assembly of Our Province of Quebec insist upon any of the said Privileges, You are to signify to them that it is Our express Will and Pleasure, that You do not allow any Protection to any Member of the Council or Assembly, further than in their Persons, and that only during the Sitting of the Assembly; and that You do not allow them to adjourn themselves otherwise than de die in diem, except Sundays and Holy-days, without Leave from You, or the Commander in Chief for the time being, first obtained; It is also Our further Pleasure, that the Council have the like Power of framing Money Bills as the Assembly.

16. And whereas by Our aforesaid Commission under Our Great Seal of Great Britain, You are authorized and impowered, with the Advice and Consent of Our Council, to constitute and appoint Courts of Judicature and Justice; it is therefore Our Will and Pleasure, that You do, as soon as possible, apply your Attention to these great and important Objects; and that, in forming the necessary Establishments for this purpose, You do consider what has taken place in this respect in Our other Colonies in America, more particularly in Our Colony of Nova Scotia.

17. And whereas it is for the Ease, Satisfaction and Benefit of all Our Subjects, that Appeals should be allowed, in all Civil Causes, from the Courts in Our Plantations; it is therefore Our Will and Pleasure, that, when the several Courts and Offices necessary for the Administration of Justice shall have been settled, appointed and confirmed, in Consequence of the Power vested in You by Our Commission under Our Great Seal and by these Our Instructions, You do, as near as different Circumstances will admit, conform yourself to the Regulations prescribed in the Instructions given to Our Governor of Nova Scotia in respect to such Appeals, Copies of which Instructions are hereunto annexed.

18. You are, with the Advice and Consent of Our Council in the Province under your Government, to take especial Care to regulate all Salaries and Fees belonging to Places, or paid upon Emergencies, that they be within the Bounds of Moderation, and that no Exaction be made on any Occasion whatsoever; as also that Tables of all Fees be publickly hung up in all Places where such Fees are to be paid; and You are to transmit Copies of all such Tables of Fees to Our Commissioners for Trade and Plantations, in order to be laid before Us.

19. It is Our express Will and Pleasure, that You do, by the first Opportunity, and with all convenient Speed, transmit unto Us, by Our Commissioners for Trade and Plantations, authentic Copies of all Acts, Orders, Grants, Commissions or other Powers, by Virtue of which any Courts, Offices, Jurisdictions, Pleas, Authorities, Fees and Privileges have been settled or established, for Our Confirmation or Disallowance; and in case all or any of them shall, at any time or times, be disallowed and not approved, then such and so many as shall be so disallowed and not approved, and so signified by Us, shall cease, determine, and be no longer continued or put in Practice.

20. You shall not appoint any Person to be a Judge or Justice of the Peace, without the Advice and Consent of the Majority of the Members of Our Council, present in Council; nor shall You execute yourself, or by Deputy, any of the said Offices; and it is Our further Will and Pleasure, that all Commissions, to be granted by You, to any Person or Persons to be Judges or Justices of the Peace, or other necessary Officers, be granted during Pleasure only.

21. You shall not displace any of the Judges, Justices of Peace, or other Officers or Ministers, without good and sufficient Cause, which You shall signify in the fullest and most distinct manner to Our Commissioners for Trade and Plantations, in order to be laid before Us, by the first Opportunity after such Removals.

22. And whereas frequent Complaints have heretofore been made of great Delays and undue Proceedings in the Courts of Justice in several of Our Plantations, whereby many of Our good Subjects have very much suffered; and it being of the greatest Importance to Our Service, and to the Welfare of Our Plantations, that Justice be every where speedily and duly

administered, and that all Disorders, Delays, and other undue Practices in the Administration thereof, be effectually prevented; We do particularly require You to take especial Care, that in all Courts, where You are authorized to preside, Justice be impartially administered; and that in all other Courts, established within Our said Province, all Judges, and other Persons therein concerned, do likewise perform their several Duties without any Delay or Partiality.

23. You are to take Care, that all Writs be issued in Our Name throughout the Province under your Government.

24. Whereas there are several Offices in Our Plantations granted under the Great Seal of Great Britain, and Our Service may be very much prejudiced by reason of the Absence of the Patentees, and by their appointing Deputies not fit to officiate in their Stead; You are therefore to inspect such of the said Offices as are in the Province under your Government, and to enquire into the Capacity and Behaviour of the Persons exercising them, and to report thereupon, to Our Commissioners for Trade and Plantations, what you think fit to be done or altered in relation thereunto; and you are, upon the Misbehaviour of any of the said Patentees or their Deputies, to suspend them from the Execution of their Office, till you shall have represented the whole Matter unto Us, and received Our Directions therein; And in case of the Death of any such Deputy, it is Our express Will and Pleasure, that You take Care that the Person appointed to execute the Place, until the Patentee can be informed thereof and appoint another Deputy, do give sufficient Security to the Patentee, or, in case of Suspension, to the Person suspended, to be answerable to him for the Profits accruing during such Interval by Death, or during such Suspension, in case We shall think fit to restore the Person suspended to his Place again. It is nevertheless Our Will and Pleasure, that the Person executing the Place during such Interval by Death or Suspension, shall, for his Encouragement, receive the same Profits as the Person dead, or suspended did receive; And it is Our further Will and Pleasure, that, in case of a Suspension of a Patentee, the Person appointed by you to exercise the Office during such Suspension, shall receive a Moiety of the Profits which would otherwise become due to such Patentee, giving Security to such Patentee to be answerable to him for the other Moiety, in case We shall think fit to restore him to his Office again; And it is Our further Will and Pleasure, that you do countenance and give all due Encouragement to all Our Patent Officers in the Enjoyment of their legal and accustomed Fees, Rights, Privileges and Emoluments, according to the true Intent and Meaning of their Patents.

25. You shall not, by Colour of any Power or Authority hereby or otherwise granted, or mentioned to be granted unto you, take upon you to give, grant or dispose of any Office or Place within Our said Province, which now is or shall be granted under the Great Seal of this Kingdom, or to which any Person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than that you may, upon the Vacancy of any such

Office or Place, or upon the Suspension of any such Officer by You, as aforesaid, put in any fit Person to officiate in the Interval, till you shall have represented the Matter unto Our Commissioners for Trade and Plantations, in order to be laid before Us, as aforesaid, (which You are to do by the first Opportunity,) and till the said Office or Place be disposed of by Us, Our Heirs or Successors, under the Great Seal of this Kingdom, or until some Person shall be appointed thereto by Warrant under Our Signet and Sign Manual, or Our further Directions be given therein.

26. And whereas several Complaints have been made by the Surveyor General, and other Officers of Our Customs in Our Plantations in America, that they have frequently been obliged to serve as Jurors, and personally to appear in Arms whenever the Militia is drawn out, and thereby are much hindered in the Execution of their Employments; Our Will and Pleasure is, that You take effectual Care, and give the necessary Directions, that the several Officers of Our Customs be excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in case of absolute Necessity, or serving any parochial Offices, which may hinder them in the Execution of their Duty.

27. And whereas the Surveyor General of Our Customs in the Plantations are impowered, in case of the Vacancy of any of Our Offices of the Customs by Death, Removal, or otherwise, to appoint other Persons to execute such Offices, until they receive Directions from Our Commissioners of the Treasury, or Our High Treasurer, or Commissioners of Our Customs, for the time being; but in regard the Districts of Our said Surveyors General are very extensive, and that they are required at proper times to visit the Officers in the several Governments under their Inspection; and that it might happen that some of the Officers of Our Customs in the Province under your Government may die, at the Time when the Surveyor General is absent in some distant Part of his District, so that he cannot receive Advice of such Officer's Death within a reasonable Time, and thereby make Provision for carrying on the Service, by appointing some other Person in the room of such Officer who may happen to die; therefore, that there be no Delay given on such Occasion to the Masters of Ships or Merchants in their Dispatches, it is Our further Will and Pleasure, in case of such Absence of the Surveyor General, or if he should happen to die, and in such Cases only, that, upon the Death of any Collector of Our Customs within Our said Province, You, or, in your Absence, our Lieutenant Governor or Commander in Chief, shall make Choice of a Person of known Loyalty, Experience, Diligence and Fidelity, to be Employed in such Collector's room, for the Purposes aforesaid, until the Surveyor General of Our Customs shall be advised thereof, and appoint another to succeed in such Place, and that further Directions shall be given therein by Our Commissioners of Our Treasury, or Our High Treasurer, or by the Commissioners of Our Customs, for the time being, which shall be first signified; taking care that You do not, under any Pretence of this Instruction, interfere with the

Powers and Authorities given by the Commissioners of Our Customs to the said Surveyors General, when they are able to put the same in Execution.

28. And whereas We have stipulated, by the late Definitive Treaty of Peace concluded at Paris the 10th Day of February 1763, to grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise and most effectual Orders, that Our new Roman Catholick Subjects in that Province may profess the Worship of their Religion, according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our Will and Pleasure, that you do, in all things regarding the said Inhabitants, conform with great Exactness to the Stipulations of the said Treaty in this respect.

29. You are, as soon as possible, to summon the Inhabitants to meet together, at such Time or Times, Place or Places, as you shall find most convenient, in order to take the Oath of Allegiance, and make and subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the first Year of the Reign of King George the First, for the further Security of His Majesty's Person and Government, and the Succession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for extinguishing the Hopes of the pretended Prince of Wales, and his open and secret Abettors; which Oath shall be administered to them by such Person or Persons as you shall commissionate for such Purpose; and in case any of the said French Inhabitants shall refuse to take the said Oath, and make and subscribe the Declaration of Abjuration, as aforesaid, You are to cause them forthwith to depart out of Our said Government.

30. And it is Our further Will and Pleasure, that all such Inhabitants, professing the Religion of the Romish Church, do, at all such Meetings, or at such other Time or Times as You shall think proper, and in the Manner you shall think least alarming and inconvenient to the said Inhabitants, deliver in upon Oath an exact Account of all Arms and Ammunition, of every Sort in their actual Possession, and so, from time to time, of what they shall receive into their Possession, as aforesaid.

31. You are as soon as possible to transmit to Us, by Our Commissioners for Trade and Plantations, an exact and particular Account of the Nature and Constitution of the several Religious Communities of the Romish Church, their Rights, Claims, Privileges and Property, and also the Number, Situation and Revenue of the several Churches heretofore established in Our said Province, together with the Number of Priests or Curates officiating in such Churches.

32. You are not to admit of any Ecclesiastical Jurisdiction of the See of Rome, or any other foreign Ecclesiastical Jurisdiction whatsoever in the Province under your Government.

33. And to the End that the Church of England may be established both in Principles and Practice, and that the said Inhabitants may by Degrees be induced to embrace the Protestant Religion, and their Children be brought up in the Principles of it; We do hereby declare it to be Our Intention,

when the said Province shall have been accurately surveyed, and divided into Townships, Districts, Precincts or Parishes, in such manner as shall be hereinafter directed, all possible Encouragement shall be given to the erecting Protestant Schools in the said Districts, Townships and Precincts, by settling, appointing and allotting proper Quantities of Land for that Purpose, and also for a Glebe and Maintenance for a Protestant Minister and Protestant School-Masters; and you are to consider and report to Us, by Our Commissioners for Trade and Plantations, by what other Means the Protestant Religion may be promoted, established and encouraged in Our Province under your Government.

34. And You are to take especial Care, that God Almighty be devoutly and duly served throughout your Government, the Book of Common Prayer, as by Law established, read each Sunday and Holyday, and the blessed Sacrament administered according to the Rites of the Church of England.

35. You are not to prefer any Protestant Minister to any Ecclesiastical Benefice in the Province under your Government, without a Certificate from the Right Reverend Father in God the Lord Bishop of London, of his being conformable to the Doctrine and Discipline of the Church of England, and of a good Life and Conversation; And if any Person hereafter preferred to a Benefice shall appear to you to give Scandal, either by his Doctrine or Manners, you are to use the best Means for his Removal.

36. You are to give Orders forthwith, that every Orthodox Minister within your Government be one of the Vestry in his respective Parish, and that no Vestry be held without him, except in case of Sickness, or, after Notice of a Vestry summoned, he omit to come.

37. And to the End that the Ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government, as far as conveniently may be, We do think fit, that You give all Countenance and Encouragement to the Exercise of the same, excepting only the collating to Benefices, granting Licences for Marriage, and Probates of Wills, which We have reserved to You, Our Governor, and to the Commander in Chief of Our said Province for the Time being.

38. And We do further direct, that no Schoolmaster, who shall arrive in Our said Province from this Kingdom, be henceforward permitted to keep School, without the Licence of the said Lord Bishop of London; and that no other Person now there, or that shall come from other Parts, shall be admitted to keep School in your Government, without your Licence first obtained.

39. And You are to take especial Care, that a Table of Marriages, established by the Canons of the Church of England, be hung up in all Places of publick Worship, according to the Rites of the Church of England.

40. And it is Our further Will and Pleasure, that, in order to suppress, as much as in you lies, every Species of Vice and Immorality, You forthwith, do cause all Laws already made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing

and Drunkenness, to be vigorously put in Execution in every part of your Government; And that you take due Care for the Punishment of these, and every other Vice and Immorality, by Presentment upon Oath to be made to the Temporal Courts, by the Church Wardens of the several Parishes, at proper Times of the year to be appointed for that Purpose; and, for the further Discouragement of Vice, and Encouragement of Virtue and good living, (that by such Examples the Infidels may be invited and persuaded to embrace the Christian Religion), You are not to admit any Persons to publick Trusts and Employments in the Province under your Government, whose Ill-Fame and Conversation may occasion Scandal.

41. And whereas it is stipulated by the aforesaid Treaty concluded at Paris the 10th Day of February 1763, that the French Inhabitants, or Others, who have been Subjects of the Most Christian King in Canada, may retire with all Freedom and Safety wherever they shall think proper, and may sell their Estates, provided it be to Our Subjects, and bring away their Effects, as well as their Persons, without being restrained in their Emigration under any Pretence whatsoever, except that of Debts, or criminal Prosecution, and that the Time limited for the Emigration shall be fixed to the Space of Eighteen Months, to be computed from the Day of the Exchange of the Ratifications of the Treaty; You are therefore in all things to conform yourself to this Stipulation, and to take care, that such of the French Inhabitants as intend to remove within the Time limited, be not obstructed or impeded, provided they do not sell their Estates to Others than His Majesty's Subjects, and that, so long as they remain under your Government, they do in all things conform thereto in like manner as Our other Subjects.

42. And it is Our further Will and Pleasure, that all and every the French Inhabitants in Our said Province, who are now possessed of Lands within the said Province, in Virtue of Grants or Concessions made before the signing of the Preliminary Articles of Peace on the third Day of November 1762; do, within such limited Time as you in your Discretion shall think fit, register the several Grants, or other Deeds or Titles, by which they hold or claim such Lands, in the Secretary's Office; which said Grants, Deeds or other Titles, shall be entered at large in the said Office, so that the particular Quantity of Land, it's Site and Extent, the Conditions upon which it is granted, either as to Rents, Services, or Cultivation, may appear fully and at length.

43. And in case it shall appear, upon a strict and accurate Examination of the said Grants and Title Deeds, to be taken in such manner as You shall think proper, that any of the Grantees, or Persons claiming Lands under such Grants and Title Deeds, are in Possession of more Land than is contained within such Grants or other Concessions; or that the Terms and Conditions, upon which the Lands were granted, have not been complied with, agreeable to what is stipulated in such Grants or Concessions; It is Our Will and Pleasure, that you forthwith represent the same to Us, by Our Commissioners for Trade and Plantations, to the End

that you may receive such Directions thereupon, as the Nature and Circumstances of the Case shall appear to require.

44. And whereas it is necessary, in order to the advantageous and effectual Settlement of Our said Province, that the true State of it should be fully known; You are therefore, as soon as conveniently may be, to cause an accurate Survey to be made of the said Province by such able and skilful Person as is or shall be appointed for that Service, who is to report to you in writing, for your Judgment in the Measures which you may in general pursue for the making of Settlements, not only the Nature and Quality of the Soil and Climate, the Rivers, Bays and Harbours, and every other Circumstance attending the natural State of it; but also his opinion, in what manner it may be most conveniently laid out into Counties, and to annex to his Report a Map of such Survey, with the several Divisions proposed marked upon it: But as the Making such Survey will be a Work of great Length, You are in the meantime to carry on Settlements upon that Plan, which shall appear to you to be most expedient from the best Information You can collect.

45. And whereas it has been found by Experience, that the settling Planters in Townships hath very much redounded to their Advantage, not only with respect to the Assistance they have been able to afford Each other in their civil Concerns, but likewise with regard to the Security they have thereby acquired against the Insults and Incursions of neighbouring Indians, or other Enemies; You are therefore to lay out Townships of a convenient Size and Extent in such Places, as you, in your Discretion, shall judge most proper. And it is Our Will and Pleasure, that each Township do consist of about Twenty Thousand Acres, having, as far as may be, natural Boundaries extending up into the Country, and comprehending a necessary Part of the River of S^{t} Lawrence, where it can be conveniently had.

46. You are also to cause a proper Place in the most convenient Part of each Township, to be marked out for building a Town sufficient to contain such a Number of Families as you shall judge proper to settle there, with Town and pasture Lots convenient to each Tenement, taking Care, that the said Town be laid out upon, or, as near as conveniently may be, to some navigable River, or the Sea Coast; And you are also to reserve to Us proper Quantities of Land in each Township for the following Purposes, viz.; For erecting Fortifications, and Barracks, where necessary, or for other military or naval Services, and more particularly for the Growth and Production of Naval Timber, if there are any Wood-Lands fit for that Purpose.

47. And it is Our further Will and Pleasure, that a particular Spot, in, or as near each Town as possible, be set apart for the building a Church, and four Hundred Acres adjacent thereto allotted for the Maintenance of a Minister, and two Hundred for a Schoolmaster.

48. And you are to give strict Orders to the Surveyors, whom you shall employ to mark out the said Townships and Towns, to make Returns to you of their Surveys as soon as possible, with a particular Description of each Township, and the Nature of the Soil within the same.

49. And You are to oblige all such Persons as shall be appointed to be Surveyors of the said Lands in each Township, to take an Oath for the due Performance of their Offices, and for obliging them to make exact Surveys of all Lands required to be set out.

50. And whereas nothing can more effectually tend to the speedy settling Our said Colony, the Security of the Property of Our Subjects, and the Advancement of Our Revenue, than the disposing of such Lands as are Our Property upon reasonable Terms, and the establishing a regular and proper Method of proceeding with respect to the passing of Grants of such Land; It is therefore our Will and Pleasure, that all and every Person and Persons, who shall apply to You for any Grant or Grants of Land, shall, previous to their obtaining the same, make it appear before you in Council, that they are in a Condition to cultivate aud improve the same, by settling thereon, in Proportion to the Quantity of Acres desired, a sufficient Number of White Persons and Negroes; And in case you shall, upon a Consideration of the Circumstances of the Person or Persons applying for such Grants, think it adviseable to pass the same, in such Case You are to cause a Warrant to be drawn up, directed to the Surveyor General, or other proper Officers, impowering him or them to make a faithful and exact Survey of the Lands so petitioned for, and to return the said Warrant within six Months at furthest from the Date thereof, w th a Plot or Description of the Lands so surveyed thereunto annexed; Provided that you do take Care, that before any such Warrant is issued, as aforesaid, a Docquet thereof be entered in the Auditor's and Register's Office: And when the Warrant shall be returned by the said Surveyor, or other proper Officer, the Grant shall be made out in due Form, and the Terms and Conditions required by these Our Instructions be particularly and expressly mentioned in the respective Grants. And it is Our Will and Pleasure, that the said Grants shall be registered within six Months from the Date thereof in the Register's Office there, and a Docquet thereof be also entered in Our Auditor's Office there, in Case such Establishment shall take Place in Our said Province, or that, in Default thereof, such Grant shall be void; Copies of all which Entries shall be returned regularly, by the proper Officer, to Our Commissioners of Our Treasury and to Our Commissioners for Trade and Plantations, within six Months from the Date thereof.

51. And whereas great Inconveniences have arisen in many of Our Colonies in America from the granting excessive Quantities of Land to particular Persons, who have never cultivated or settled it, and have thereby prevented Others more industrious from improving the same; in order therefore to prevent the like Inconveniences for the future, You are to take

especial Care, that in all Grants to be made by you, by and with the Advice and Consent of Our Council, to Persons applying for the same, the Quantity be in Proportion to their Ability to cultivate; And you are hereby directed to observe the following Directions and Regulations in all Grants to be made by you; Viz[t]

That one hundred Acres of Land be granted to every Person being Master or Mistress of a Family, for himself or herself, and fifty Acres for every white or black Man, Woman or Child, of which such Person's Family shall consist, at the actual Time of making the Grant; and in case any Person applying to you for Grants of Land shall be desirous of taking up a larger Quantity than the actual Number of Persons in his or her Family would intitle such Persons to take up; it is Our Will and Pleasure, and you are hereby allowed and permitted, to grant unto every such Person or Persons, such further Quantity of Land as they may desire, not exceeding one Thousand Acres over and above what they are intitled to by the Number of Persons in their respective Families;—Provided it shall appear to you, that they are in a Condition and Intention to cultivate the same; and provided also, that they do pay to the Receiver of Our Quit Rents, or to such other Officer as shall be appointed to receive the same, the Sum of five Shillings only for every fifty Acres, so granted, on the Day of the Date of the Grant;—

That all Grantees be subject to the payment of two Shillings Sterling for every Hundred Acres, to commence at the Expiration of two years from the Date of such Grant, and to be paid yearly and every Year, or in Default of such payment, the Grant is to be void;—

That every Grantee, upon giving Proof that he or she has fulfilled the Terms and Conditions of his or her Grant, shall be entitled to another Grant, in the Proportion and upon the conditions abovementioned;—

That for every Fifty Acres of Land accounted plantable, each Patentee shall be obliged, within three years after the Date of his Patent, to clear and work three Acres at the least, in that part of his Tract which he shall judge most convenient and advantageous; or else to clear and drain three Acres of swampy or sunken Grounds, or drain three Acres of Marsh, if any such be within the Bounds of his Grant;—

That for every Fifty Acres of Land accounted barren, every Patentee shall be obliged to put and keep on his Land, within three years after the Date of his Grant, three neat Cattle; which Number he shall be obliged to continue on his Land, until three Acres for every Fifty be fully cleared and improved;—

That if any Person shall take up a Tract of Land, wherein there shall be no Part fit for present Cultivation without manuring and improving the same, every such Grantee shall be obliged, within three years from the Date of his Grant, to erect on some part of his Land one good Dwelling-House, to contain at least twenty Feet in Length, and sixteen Feet in Breadth; and also to put on his Land the like Number of three neat Cattle for every fifty Acres;—

That if any Person, who shall take up any stony or rocky Grounds not fit for planting or pasture, shall, within three years after the passing of his Grant, begin to employ thereon, and so continue to work, for three years then next ensuing, in digging any Stone Quarry or other Mine, one good and able Hand for every hundred Acres of such Tract, it shall be accounted a sufficient Cultivation and Improvement;—

That every three Acres, which shall be cleared and worked, as aforesaid, and every three Acres, which shall be cleared and drained, as aforesaid, shall be accounted a sufficient Seating, Planting, Cultivation and Improvement, to save for ever from Forfeiture Fifty Acres of Land in any Part of the Tract contained within the same Patent; and the Patentee shall be at Liberty to withdraw his Stock, or to forbear working in any Quarry or Mine, in Proportion to such Cultivation and Improvement, as shall be made upon the plantable Lands, or upon the Swamps, sunken Grounds and Marshes, which shall be included in the same Patent;—

That when any Person, who shall hereafter take up and patent any Lands, shall have seated, planted and cultivated, or improved the said Land, or any part of it, according to the Directions and Conditions abovementioned, such Patentee may make Proof of such Seating, Planting, Cultivation and Improvement in the general Court, or in the Court of the County, District or Precinct, where such Lands shall lie, and have such Proof certified to the Register's Office, and there entered with the Record of the said Patent, a Copy of which shall be admitted, on any Trial, to prove the seating and planting of such Land;—

And lastly, in order to ascertain the true Quantity of plantable and barren Land contained in each Grant hereafter to be made within Our said Province, you are to take especial Care, that, in all Surveys hereafter to be made, every Surveyor be required and enjoyned to take particular Notice, according to the best of his Judgment and Understanding, how much of the Land so surveyed is plantable, and how much of it is barren and unfit for Cultivation; and accordingly to insert in the Survey and Plott by him to be returned into the Register's Office, the true Quantity of each kind of Land.

52. And it is Our further Will and Pleasure, that in all Grants of Land to be made by You, as aforesaid, regard be had to the profitable and unprofitable Acres, so that each Grantee may have a proportionable Number of one Sort and the other; as likewise that the Breadth of each Tract of Land, to be hereafter granted, be one Third of the Length of such Tract; and that the Length of each Tract do not extend along the Banks of any River, but into the main Land, that thereby the said Grantees may have each a convenient Share of what Accommodation the said River may afford for Navigation or otherwise.

53. And whereas it hath been represented to Us, that many Parts of the Province under your Government are particularly adapted to the Growth and Culture of Hemp and Flax; It is therefore Our Will and

Pleasure, that, in all Surveys of Land for Settlement, the Surveyor be directed to report, whether there is any, or what Quantity of Lands contained within such Survey, fit for the Production of Hemp and Flax: And you are to take particular Care to insert a Clause in every Grant of Land, where any part thereof is fit for such Production, obliging the Grantee annually to sow a proportionable Part of his Grant with Hemp or Flax Seed.

54. And whereas it hath been further represented to Us, that a great part of the Country in the Neighbourhood of Lake Champlain, and between that Lake and the River S[t] Lawrence, abounds with Woods producing Trees fit for Masting for Our Royal Navy, and other useful and necessary Timber for Naval Construction; You are therefore expressly directed and required to cause such Parts of the said Country, or any other within your Government, that shall appear upon a Survey to abound with such Trees, and shall lye convenient for Water Carriage, to be reserved to Us, and to use your utmost Endeavour to prevent any Waste being committed upon the said Tracts, by punishing in due Course of Law any Persons who shall cut down or destroy any Trees growing thereon; and you are to consider and advise with Our Council, whether some Regulation that shall prevent any Saw Mills whatever from being erected within your Government, without a Licence from you, or the Commander in Chief of Our said Province for the Time being, may not be a Means of preventing all Waste and Destruction in such Tracts of Land as shall be reserved to Us for the Purposes aforesaid.

55. And whereas it appears from the Representations of Our Governor of the District of Trois Rivieres, that the Iron Works at S[t] Maurice in that District are of great Consequence to Our Service; It is therefore Our further Will and Pleasure, that no part of the Lands, upon which the said Iron Works were carried on, or from which the Ore used in such Works was procured, or which shall appear to be necessary and convenient for that Establishment, either in respect to a free Passage to the River S[t] Lawrence, or for producing a necessary Supply of Wood, Corn and Hay, or for Pasture for Cattle, be granted to any private Person whatever; and also that as large a District of Land as conveniently may be, adjacent to and lying round the said Iron Works, over and above what may be necessary for the above Purposes, be reserved for Our Use, to be disposed of in such manner as We shall hereafter direct and appoint.

56. And whereas it is necessary, that all Persons who may be desirous of settling in Our said Province, should be fully informed of the Terms and Conditions, upon which Lands will be granted in Our said Province; You are therefore, as soon as possible, to cause a Publication to be made, by Proclamation or otherwise, as you in your Discretion shall think most adviseable, of all and every the foregoing Terms, Conditions and Regulations of every kind, respecting the Grants of Lands; in which Proclamation it may be expedient to add some short Description of the natural Advan-

tages of the Soil, and Climate, and it's peculiar Conveniences for Trade and Navigation; and you are to take such Steps as you shall think proper for the publishing such Proclamation in all the Colonies in North America.

57. And it is Our further Will and Pleasure, that all the foregoing Instructions to you, as well as any which You may hereafter receive, relative to the Form and Method of passing Grants of Lands, and the Terms and Conditions to be annexed to such Grants, be entered upon Record, with the Grants themselves, for the Information and Satisfaction of all Parties whatever, that may be concerned therein.

58. And it is Our further Will and Pleasure, that you do consider of a proper and effectual Method of collecting, receiving and accounting for Our Quit Rents, whereby all Frauds, Concealment, Irregularity or Neglect therein may be prevented, and whereby the Receipt thereof may be effectually checked and controlled; And if it shall appear necessary to pass an Act for the more effectually ascertaining, and the more speedily and regularly collecting Our Quit Rents, you are to prepare the Heads of such a Bill, as you shall think may most effectually conduce to the procuring the good Ends proposed, and to transmit the same to Our Commissioners for Trade and Plantations, in order to be laid before Us for Our further Directions therein.

59. And it is Our further Will and Pleasure, that the Surveyor General, or such other Person or Persons as you shall think proper to appoint, do, once in every year or oftener as Occasion shall require, inspect the State of all Grants of Lands made by you, and make report thereof to you in Writing, specifying whether the Conditions therein contained have or have not been complied with, or what Progress has been made towards fulfilling the same; and you are annually to transmit Copies of such Reports to Our Commissioners for Trade and Plantations.

60. And whereas Our Province of Quebec is in part inhabited and possessed by several Nations and Tribes of Indians, with whom it is both necessary and expedient to cultivate and maintain a strict Friendship and good Correspondence, so that they may be induced by Degrees, not only to be good Neighbours to Our Subjects, but likewise themselves to become good Subjects to Us; You are therefore, as soon as you conveniently can, to appoint a proper Person or Persons to assemble, and treat with the said Indians, promising and assuring them of Protection and Friendship on Our part, and delivering them such Presents, as shall be sent to you for that purpose.

61. And you are to inform yourself with the greatest Exactness of the Number, Nature and Disposition of the several Bodies or Tribes of Indians, of the manner of their Lives, and the Rules and Constitutions, by which they are governed or regulated. And You are upon no Account to molest or disturb them in the Possession of such Parts of the said Province, as they at present occupy or possess; but to use the best means You can for conciliating their Affections, and uniting them to Our Government,

reporting to Us, by Our Commissioners for Trade and Plantations, whatever Information you can collect with respect to these People, and the whole of your Proceedings with them.

62. Whereas We have, by Our Proclamation dated the seventh day of October in the Third year of Our Reign, strictly forbid, on pain of Our Displeasure, all Our Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands reserved to the several Nations of Indians, with whom We are connected, and who live under Our Protection, without Our especial Leave for that Purpose first obtained; It is Our express Will and Pleasure, that you take the most effectual Care that Our Royal Directions herein be punctually complied with, and that the Trade with such of the said Indians as depend upon your Government be carried on in the Manner, and under the Regulations prescribed in Our said Proclamation.

63. You are to use your best Endeavours in improving the Trade of those Parts, by settling such Orders and Regulations therein, with the Advice of Our said Council, as may be most acceptable to the Generality of the Inhabitants. And it is Our express Will and Pleasure, that you do not, upon any Pretence whatever, upon pain of Our highest Displeasure, give your Assent to any Law or Laws for setting up any Manufactures and carrying on any Trades, which are hurtful and prejudicial to this Kingdom; and that You do use your utmost Endeavours to discourage, discountenance and restrain any Attempts which may be made to set up such Manufactures, or establish any such Trades.

64. Whereas by the 5th and 6th Articles of the Treaty of Peace and Neutrality in America,[1] concluded between England and France the 6th–16 Day of November 1686, the Subjects and Inhabitants of each Kingdom are prohibited to trade and fish in all Places possessed, or which shall be possessed by the other in America; and if any Ships shall be found trading contrary to the said Treaty, upon due Proof the said Ships shall be confiscated; but in case the subjects of either King shall be forced by Stress of Weather, Enemies, or other Necessity into the Ports of the other in America, they shall be treated with Humanity and Kindness, and may provide themselves with Victuals, and other Things necessary for their Sustenance, and the Reparation of their Ships, at reasonable Rates; provided they do not break bulk, nor carry any Goods out of their Ships, exposing them to Sale, nor receive any Merchandize on board, under Penalty of Confiscation of Ship and Goods; It is therefore Our Will and Pleasure, that You signify to Our Subjects under your Government the Purport and Intent of the abovesaid two Articles; and that you take particular Care, that none of the French Subjects be allowed to trade from their said Settlements to the Province under your Government, or to fish upon the Coast thereof.

[1] This Treaty of London, had reference only to the dominions of the two Crowns in America. It is given in full in *Collection de Documents Relatifs à l'Histoire de la Nouvelle-France*. Vol. I. p. 372.

65. And it is Our Will and Pleasure, that You do not dispose of any Forfeitures or Escheats to any Person, until the Sheriff, or other proper Officer, have made Enquiry, by a Jury upon their Oaths, into the true Value thereof, nor until you have transmitted to Our Commissioners of Our Treasury, and to Our Commissioners for Trade and Plantations, a particular Account of such Forfeitures and Escheats, and the Value thereof. And you are to take Care, that the Produce of such Forfeitures and Escheats, in case We shall think proper to give You Directions to dispose of the same, be duly paid to Our Treasurer or Receiver General of Our said Province, and a full Account transmitted to Our Commissioners of Our Treasury, or Our High Treasurer for the Time being, and to Our Commissioners for Trade and Plantations, with the Names of the Persons to whom disposed.

66. And whereas Commissions have been granted unto several Persons in Our respective Plantations in America for the trying of Pirates in those Parts, pursuant to the Acts for the more effectual Suppression of Piracy; and by a Commission already sent to Our Province of New York, Our Governor there is impowered, together with Others therein mentioned, to proceed accordingly in Reference to Our said Province; Our Will and Pleasure is, that you do use your best Endeavours to apprehend all Persons whatever who may have been guilty of Piracy within your Government, or who having committed such Crimes at other Places, may come within your Jurisdiction; and until We shall think proper to direct the like Commission to be established for Our Government of Quebec, You are to send such Pirates, with what Proofs of their Guilt You can procure or collect, to Our Governor of New York to be tried and punished under the Authority of the Commission established for those Parts.

67. And whereas you will receive from Our Commissioners for executing the Office of High Admiral of Great Britain and of Our Plantations, a Commission constituting you Vice Admiral of Our said Province; You are hereby required and directed carefully to put into Execution the several Powers thereby granted to you.

68. Whereas great Inconveniences have happened heretofore by Merchant Ships and other Vessels in the Plantations wearing the Colours borne by Our Ships of War, under Pretence of Commissions granted to them by the Governors of the said Plantations, and, by trading under those Colours, not only amongst Our own Subjects, but also those of other Princes and States, and committing divers Irregularitys, they may very much dishonor Our Service; For preventing thereof You are to oblige the Commanders of all such Ships, to which you shall grant Commissions, to wear no other Colours than such as are described in an Order of Council of the seventh of January 1730, in relation to Colours to be worn by all Ships and Vessels, except Our Ships of War.

69. And whereas there have been great Irregularitys in the manner of granting Commissions in the Plantations to private Ships of War, You

are to govern yourself, whenever there shall be Occasion, according to the Commissions and Instructions granted in this Kingdom; But you are not to grant Commissions of Marque or Reprizal against any Prince or State, or their Subjects, in Amity with Us, to any Person whatsoever, without Our special Command.

70. Whereas We have been informed that, during the time of War, Our Enemies have frequently got Intelligence of the State of Our Plantations by Letters from private Persons to their Correspondents in Great Britain, taken on board Ships coming from the Plantations, which has been of dangerous Consequence; Our Will and Pleasure therefore is, that you signify to all Merchants, Planters and Others, that they be very cautious, in time of War, whenever that shall happen, in giving any Accounts by Letters of the public State and Condition of Our Province under your Government; And you are further to give Directions to all Masters of Ships, or other Persons to whom you may entrust your Letters, that they put such Letters into a Bag, with a sufficient weight to sink the same immediately in Case of imminent danger from the Enemy; And you are also to let the Merchants and Planters know, how greatly it is for their Interest that their Letters should not fall into the Hands of the Enemy, and therefore that they should give like Orders to Masters of Ships in relation to their Letters; And you are further to advise all Masters of Ships, that they do sink all Letters, in case of Danger, in the Manner before mentioned.

71. And whereas, in Time of War, the Merchants and Planters in Our Plantations in America did correspond and trade with Our Enemies, and carry Intelligence to them, to the great Prejudice and Hazard of Our said Plantations; You are therefore by all possible Methods to endeavour to hinder such Trade and Correspondence in Time of War.

72. And You are to report to Us, by Our Commissioners for Trade and Plantations,—

What is the Nature of the Soil and Climate of the Province under your Government. If it differs in these Circumstances from Our other Northern Colonies, in what that Difference consists? And what beneficial Articles of Commerce the different Parts of it are capable of producing?

What Rivers there are, and of what Extent and Convenience to the Planters?

What are the principal Harbours; how situated, of what Extent; and what is the Depth of Water, and Nature of the Anchorage in each of them?

What Quantity of Land is now under actual Improvement and Settlement? What are the chief Articles of Produce and Culture; the annual amount of the Quantity of each; and upon what Terms and Conditions the Inhabitants hold their Lands, either of Cultivation, Rent, or Personal Service?

What is the Quantity, Nature and Property of the Land uncultivated; how much of it is capable of Culture; and what part thereof is private Property?

What is the Number of Inhabitants, Whites and Blacks, distinguishing each? What Number of the Former is capable of bearing Arms, and what Number of the Latter is annually necessary to be supply'd in proportion to the Land cultivated?

What was the Nature, Form and Constitution of the Civil Government; what Judicatures were there established, and under what Regulations did the French Inhabitants carry on their Commerce?

73. You are from time to time to send unto Us, by Our Commissioners for Trade and Plantations, as aforesaid, an Account of the Increase and Decrease of the Inhabitants, Whites and Blacks, and also an Account of all Persons born, christened and buried.

74. Whereas it is absolutely necessary, that We be exactly informed of the State of Defence of all Our Plantations in America, as well in relation to the Stores of War that are in each Plantation, as to the Forts and Fortifications there: and what more may be necessary to be built for the Defence and Security of the same; You are as soon as possible to prepare an Account thereof with relation to Our said Province in the most particular manner; And You are therein to express the present State of the Arms, Ammunition and other Stores of War, belonging to the said Province, either in public Magazines, or in the Hands of private Persons; together with the State of all Places, either already fortified, or that you judge necessary to be fortified for the Security of Our said Province; And you are to transmit the said Accounts to Our Commissioners for Trade and Plantations, as also a Duplicate thereof to Our Master General or principal Officers of Our Ordnance; Which Accounts are to express the Particulars of Ordnance, Carriages, Balls, Powder, and other Sorts of Arms and Ammunition in Our public Stores, and so from time to time of what shall be sent you, or bought with the public Money, and to specify the Time of the Disposal, and the Occasion thereof: And You are half yearly to transmit a general Account of the State of the Fortifications and Warlike Stores, specify'd in the manner above mentioned.

75. You are from time to time to give an Account, what Strength your Neighbours have by Sea and Land, and of the Condition of their Plantations, and what Correspondence You keep with them.

76. And in case of any Distress of any other of Our Plantations, You shall, upon Application of the respective Governors thereof unto you, assist them with what Aid the Condition and Safety of Our Province under Your Government can spare.

77. If anything shall happen, which may be of Advantage or Security to Our Province under your Government, which is not herein, or by your Commission provided for, We do hereby allow unto you, with the Advice and Consent of Our Council, to take Order for the present therein, giving

unto Our Commissioners for Trade and Plantations speedy Notice thereof, in order to be laid before Us, that you may receive Our Ratification, if We shall approve the same:—provided always, that you do not, by Colour of any Power or Authority hereby given you, commence or declare War without Our Knowledge and particular Commands therein.

78. And whereas We have, by the second Article of these Our Instructions to you, directed and appointed that your chief Residence shall be at Quebec; you are nevertheless frequently to visit the other parts of your Government, in order to inspect the Management of all public Affairs, and thereby the better to take Care, that the Government be so administered, that no disorderly Practices may grow up contrary to Our Service and the Welfare of Our Subjects.

79. And whereas great Prejudice may happen to Our Service, and the Security of the Province, by your Absence from those Parts, You are not, upon any Pretence whatsoever, to come into Europe, without having first obtained Leave for so doing from Us under Our Sign Manual and Signet, or by Our Order in Our Privy Council; Yet nevertheless in case of Sickness, You may go to South Carolina, or any other of Our Southern Plantations, and there stay for such Space as the Recovery of your Health may absolutely require.

80. And whereas We have thought fit by Our Commission to direct, that in case of your Death or Absence, and the Death or Absence of Our Lieutenant Governors of Montreal and Trois Rivieres, and in Case there be at that time no Person within Our said Province, commissionated or appointed by Us to be Commander in Chief, that the Eldest Councillor, who shall be at the time of your Death or Absence, or at the Death or Absence of Our Lieutenant Governors, as aforesaid, residing within Our said Province under your Government, shall take upon him the Administration of Government, and execute Our said Commission and Instructions, and the several Powers and Authorities therein directed; It is nevertheless Our express Will and Pleasure, that in such Case the said President shall forbear to pass any Act or Acts, but what are immediately necessary for the Peace and Welfare of the said Province, without Our particular Order for that purpose; And that he shall not remove or suspend any of the Members of Our Council, nor any Judges, Justices of the Peace, or other Officers Civil or Military, without the Advice and Consent of at least Seven of the Members of Our said Council, nor even then without good and sufficient Reasons for the same, which the said President is to transmit, signed by himself and the rest of Our said Council, to Our Commissioners for Trade and Plantations, by the first Opportunity in order to be laid before Us.

81. And whereas We are willing in the best manner to provide for the Support of the Government of Our Province aforesaid, of which You are Governor, by setting apart sufficient Allowances to such as shall be Our Governor or Commander in Chief, residing for the time being within the

same; Our Will and Pleasure is, that when it shall happen that you are absent from Our said Province, One full Moiety of the Salary, and all Perquisites and Emoluments whatsoever, which would otherwise become due unto You, shall, during the time of your Absence, be paid and satisfied unto Our Commander in Chief, who shall be resident within Our said Province for the Time being; which We do hereby order and allot unto him for his Maintenance, and for the better Support of the Dignity of that Our Government.

82. And You are upon all Occasions to send unto Our Commissioners for Trade and Plantations only, a particular Account of all your Proceedings, and of the Condition of Affairs within your Government, in order to be laid before Us: provided nevertheless, whenever any Occurrences shall happen within your Government of such a Nature and Importance as may require Our more immediate Directions by One of Our Principal Secretaries of State and also upon all Occasions and in all Affairs wherein you may receive Our Orders by One of Our Principal Secretaries of State, you shall in all such Cases transmit to Our Secretary of State only an Account of all such Occurrences, and of your Proceedings relative to such Orders:—

G. R.

ORDINANCE ESTABLISHING CIVIL COURTS.[1]

An ORDINANCE, for regulating and establishing the Courts of Judicature, Justices of the Peace, Quarter-Sessions, Bailiffs, and other Matters relative to the Distribution of Justice in this Province.[2]

Whereas it is highly expedient and necessary, for the well governing of His Majesty's good Subjects of the Province of *Quebec*, and for the speedy and impartial Distribution of Justice among the same, that proper Courts of Judicature, with proper Powers and Authorities, and under proper Regulations, should be established and appointed:

His Excellency the Governor, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Virtue of the Power and Authority to him given by His Majesty's Letters Patent, under the Great Seal of *Great-Britain*, hath thought fit to Ordain and Declare; and his said Excellency, by and with the Advice, Consent and Assistance aforesaid, *Doth hereby Ordain and Declare*,

That a Superior Court of Judicature, or Court of King's Bench, be established in this Province, to sit and hold Terms in the Town of *Quebec*,

[1] The text of this ordinance is taken from, "Ordinances, Made for the Province of Quebec, by the Governor and Council of the said Province, since the Establishment of the Civil Government. Quebec, 1767." This has been compared with the copy in the Canadian Archives, vol. Q 62 A, pt. 2. p. 500.

[2] This and the other ordinances of the period were passed under the authority of the Proclamation of Oct. 8th, 1763, together with the Commission and Instructions given to Governor Murray. Civil Government was not formally established in Canada until Aug. 10th, 1764. This was due to the terms of the Treaty of Paris, of 10th Feb., 1763, which specified that eighteen months were to be allowed for those French-Canadians who cared to leave the country to do so.

twice in every Year, *viz.* One to begin on the Twenty-first Day of *January*, called *Hillary* Term, the other on the Twenty-first Day of *June*, called *Trinity* Term.

In this Court His Majesty's Chief-Justice[1] presides, with Power and Authority to hear and determine all criminal and civil Causes, agreeable to the Laws of *England*, and to the Ordinances of this Province; and from this Court an Appeal lies to the Governor and Council, where the Matter in Contest is above the Value of *Three Hundred Pounds* Sterling; and from the Governor and Council an Appeal lies to the King and Council, where the Matter in Contest is of the Value of *Five Hundred Pounds* Sterling or upwards,

In all Tryals in this Court, all His Majesty's Subjects in this Colony to be admitted on Juries without Distinction.[2]

And His Majesty's Chief-Justice, once in every Year, to hold a Court of Assize, and General Goal-Delivery, soon after *Hillary* Term, at the Towns of *Montreal*[3] and *Trois-Rivières*, for the more easy and convenient Distribution of Justice to His Majesty's Subjects in those distant Parts of the Province.

And whereas an inferior Court of Judicature, or Court of Common-Pleas,[4] is also thought necessary and convenient, *It is further Ordained and Declared, by the Authority aforesaid*, That an inferior Court of Judicature, or Court of Common-Pleas, is hereby established, with Power and Authority, to determine all Property above the Value of *Ten Pounds*, with a Liberty of Appeal to either Party, to the Superior Court, or Court of King's-Bench, where the Matter in Contest is of the Value of *Twenty Pounds* and upwards.

All Tryals in this Court to be by Juries,[5] if demanded by either Party; and this Court to sit and hold two Terms in every Year at the Town of

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[1] The first Chief Justice of Canada was William Gregory, appointed in 1764.

[2] Accompanying the copy of this ordinance sent to the Home Government, were certain explanatory observations, in which Governor Murray states his reasons for introducing various features. On this clause his observation is as follows:—"As there are but Two Hundred Protestant Subjects in the Province, the greatest part of which are disbanded Soldiers of little Property and mean Capacity, it is thought unjust to exclude the new Roman Catholic Subjects to sit upon Juries, as such exclusion would constitute the said Two hundred Protestants perpetual Judges of the Lives and Property of not only Eighty Thousand of the new Subjects, but likewise of all the Military in the Province; besides if the Canadians are not to be admitted on Juries, many will Emigrate; This Establishment is therefore no more than a temporary Expedient to keep Things as they are until His Majesty's Pleasure is known on this critical and difficult Point." Q 62 A, pt. 2, p. 500.

[3] Governor Murray's observation:—"We find, which was not at first apprehended, that the Court of Assize proposed to be held at Montreal Twice every year, will be attended with too much Expense to the Crown, and therefore that Establishment shall be corrected." Ibid. p. 502.

[4] Governor Murray's observation:—"The Court of Common Pleas is only for the Canadians; not to admit of such a Court until they can be supposed to know something of our Laws and Methods of procuring Justice in our Courts, would be like sending a ship to sea without a Compass; indeed it would be more cruel—the ship might escape, Chance might drive her into some hospitable Harbour, but the poor Canadians could never shun the Attempts of designing Men, and the Voracity of hungry Practitioners in the Law; they must be undone during the First Months of their Ignorance; if any escaped, their Affections must be alienated and disgusted with our Government and Laws" Ibid. p. 502.

[5] Governor Murray's observation:—"It is necessary to Observe that the few British Traders living here, of which not above Ten or Twelve have any fixed Property in this Province, are much dissatisfied because we have admitted the Canadians on Juries; the Reason is evident, their own Consequence is thereby bounded. But the Practitioners in the English Law have probably put them out of Humour with the Court of Common Pleas (which they are pleased to call unconstitutional:) Ibid. p. 503.

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Quebec, at the same Time with the Superior Court, or Court of King's-Bench. Where the Matter in Contest in this Court is above the Value of *Three Hundred Pounds* Sterling, either Party may (if they shall think proper) appeal to the Governor and Council immediately, and from the Governor and Council an Appeal lies to the King and Council, where the Matter in Contest is of the Value of *Five Hundred Pounds* Sterling or upwards.

The Judges in this Court are to determine agreeable to Equity, having Regard nevertheless to the Laws of *England*, as far as the Circumstances and present Situation of Things will admit, until such Time as proper Ordinances for the Information of the People can be established by the Governor and Council, agreeable to the Laws of *England*.

The *French* Laws and Customs to be allowed and admitted in all Causes in this Court, between the Natives of this Province, where the Cause of Action arose before the first Day of *October*, One Thousand Seven Hundred and Sixty-four.

The first Process of this Court to be an Attachment against the Body.

An Execution to go against the Body, Lands or Goods of the Defendant.

[1]*Canadian* Advocats, Proctors, &c. may practise in this Court.

And whereas it is thought highly necessary for the Ease, Convenience and Happiness of all His Majesty's loving Subjects, That Justices of the Peace should be appointed for the respective Districts of this Province, with Power of determining Property of small Value in a summary Way, *It is therefore further Ordained and Declared, by the Authority aforesaid*, and full Power is hereby Given and Granted to any one of His Majesty's Justices of the Peace, within their respective Districts, to hear and finally determine in all Causes or Matters of Property, not exceeding the Sum of *Five Pounds* current Money of *Quebec*, and to any two Justices of the Peace, within their respective Districts, to hear and finally determine in all Causes or Matters of Property, not exceeding the Sum of *Ten Pounds* said Currency, which Decisions being within, and not exceeding the aforesaid Limitation, shall not be liable to an Appeal; and also full Power is, by the Authority aforesaid, Given and Granted, to any three of said Justices of the Peace to be a Quorum, with Power of holding Quarter-Sessions in their respective Districts every three Months, and also to hear and determine all Causes and Matters of Property which shall be above the Sum of *Ten Pounds*, and not exceeding *Thirty Pounds* current Money of *Quebec*, with Liberty of Appeal to either Party to the Superior Court, or Court of King's-Bench: *And it is hereby Ordered*, That the aforesaid Justices of the Peace do issue their Warrants, directed to the Captains and other Officers of the Militia in this Province, to be by them executed, until the Provost-Marshal, legally

[1] Governor Murray's observation:—"We thought it reasonable and necessary to allow Canadian Advocates and Proctors to practice in this Court of Common Pleas only (for they are not admitted in the other Courts) because we have not yet got one English Barrister or Attorney who understands the French Language." Ibid. p. 504. See also, in connection with this and the previous note, Murray's letter to the Lords of Trade, Oct. 29th, 1764, p. 231 and the petition of the Quebec Traders to the King, p. 232

authorised by His Majesty, shall arrive, and other inferior Officers be appointed for that Purpose; all Officers, Civil and Military, or other His Majesty's loving Subjects, are hereby commanded and required to be aiding and assisting to the said Justices and Officers of Militia in the due Execution of their Duty. *And it is further Ordered and Directed, by the Authority aforesaid*, That two of the said Justices of the Peace do sit weekly in Rotation, for the better Regulation of the Police, and other Matters and Things in the Towns of *Quebec* and *Montreal*, and that the Names of the Justices who are to sit in each Week, be posted up on the Door of the Session-House by the Clerk of the Peace, two Days before their respective Days of Sitting, that all Persons may know to whom to apply for Redress.

And whereas there are not at present a sufficient Number of Protestant Subjects, resident in the intended District of *Trois-Rivieres*, qualified to be Justices of the Peace, and to hold Quarter-Sessions, *It is therefore further Ordained and Declared, by the Authority aforesaid*, That from henceforth this Province shall be divided into two Districts, to be known and called by the Names of *Quebec* and *Montreal*, for the Time being, and until there may be a competent Number of Persons settled at or near *Trois-Rivieres*, duly qualified to execute the Office of Justices of the Peace, and the Power of holding such Quarter-Sessions above-mentioned, or until His Majesty's Pleasure be known in that Behalf; and that the said two Districts be divided and bounded by the River *Godfroy* on the South, and by the River *St. Maurice* on the North Side.

And whereas it is thought very expedient and necessary, for the speedy and due Execution of the Laws, and for the Ease and Safety of His Majesty's Subjects, That a sufficient Number of inferior Officers should be appointed in every Parish throughout this Province; *It is therefore Ordered, by the Authority aforesaid*, That the Majority of the Householders, in each and every Parish, do, on the Twenty-fourth Day of *June*, in every Year, elect and return to the Deputy-Secretary, within fourteen Days after such Election, six good and sufficient Men to serve as Bailiffs[1] and Sub-Bailiffs in each Parish, out of which Number the King's Governor, or Commander in Chief for the Time being, with the Consent of the Council, is to nominate and appoint the Persons who are to act as Bailiffs and Sub-Bailiffs in each Parish; and such Nomination or Appointment is to be notified by the Deputy-Secretary to the respective Parishes, and also published in the QUEBEC-GAZETTE, some Time in the last Week in *August* in every Year; and the said Bailiffs and Sub-Bailiffs, so nominated as aforesaid, are to enter upon, and begin to execute their respective Offices on the Twenty-ninth Day of *September* in every Year.

No Person to be elected a second Time to the same Office, except the whole Parish has served round, or that those who have not, are laid aside for some material Objection, which must be supported by Proof: But that

[1] Governor Murray's observation:—"We called them Bailiffs, because the Word is better understood by the New Subjects than that of Constable." Ibid. p. 510.

there may never be an entire Set of new Officers at one Time, but that those who remain may be able to instruct those who enter into Office, one of those Persons who served as Sub-Bailiffs in each Parish, to be elected and nominated Bailiffs of said Parish the ensuing Year.

If a Bailiff dies in his Office, the Governor, or Commander in Chief, will nominate one of those returned by said Parish to serve as Sub-Bailiffs for the Remainder of the Year; and when a Sub-Bailiff happens to die in Office, the Bailiffs shall assemble the Parish upon the next publick Feast Day insuing his Decease, who shall proceed to elect and return, as aforesaid, another Sub-Bailiff.

The Election of Bailiffs and Sub-Bailiffs for this present Year, to be on the Twentieth Day of *October;* their Names to be returned immediately after the Election: Their Nomination will be notified and published by the Deputy-Secretary as soon as may be, and they shall enter upon, and begin to execute their respective Offices, on the First Day of *December*, but all Elections, &c. after this Turn, shall be upon the Days and Times abovementioned and appointed for that Purpose.

The Bailiffs are to oversee the King's High-ways and the publick Bridges, and see that the same are kept in good and sufficient Repair; to arrest and apprehend all Criminals, against whom they shall have Writs or Warrants, and to guard and conduct them through their respective Parishes, and convey them to such Prisons or Places as the Writ or Warrant shall direct: They are also to examine all Bodies that are exposed, and on whom any Marks of Violence appear, in Presence of five reputable Householders of the same Parish, whom he is hereby impowered to summons to inspect the same, and report in Writing the State and Circumstances thereof to the next Magistrate, that a further Examination may be made therein if necessary; but this to be done only where the Coroner cannot by any Possibility attend, which in this extensive Province may frequently happen.

Where any Disputes happen concerning the Breaking or Repairing of Fences, upon Complaint made to the Bailiff, he shall summons the Defendant, who is to choose three indifferent Persons, and the Plaintiff three more, and these six, the Bailiff presiding, to decide the Dispute; from their Sentence either Party may appeal to the Quarter-Sessions; the Person found in Fault to pay One Shilling and no more, to the Person who shall draw up the Decision.

These Bailiffs to be sworn into their Office by the next Justice of the Peace, as soon as may be after their Nomination as aforesaid, and the said Oath to be returned to the next Quarter-Sessions by such Justice.

GIVEN by His Excellency the Honourable JAMES MURRAY, *Esq.; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment*, &c. &c. *In Council, at* Quebec, *the 17th of*

September, Anno, Domini, 1764, *and in the Fourth Year of the Reign of our Sovereign Lord* GEORGE *the* III, *by the Grace of* GOD *of* Great-Britain, France, *and* Ireland, *KING, Defender of the Faith,* &c. &c.

JA: MURRAY.

By Order of His EXCELLENCY in Council,
J. GRAY, *D. Sec^ry*

Governor Murray to the Earl of Halifax.[1]

QUEBEC 15^th^ Oct^r^ 1764

MY LORD When the Commission His Majesty had been gratiously pleased to honor me with as Governor of this Province arrived at Quebec, The Gentlemen who had till then acted as Lieu^t^ Governors of Montreal and Trois Rivieres chose Still to Continue so in their Military Capacitys, and declared I could have no Command over the Troops in their respective Districts.[2]

The Regard I have for my Royal Masters Service which must ever make me Studious to Obviate, any real or possible Motive of Dissagreement, amongst his officers, induced me to Wave a Right which appeared to myself plain, incontestable, and indeed necessary for the Governor of this Province; I however laid the same before the Commander in Chief, and at the same time sent him a Coppy of my Military Commission, as Governor of the Town and Dependencies of Quebec, Coppys of the Letters which have pass'd on this Occasion, I have the honor to lay before your Lordship; And as I plainly forsee M^r^ Gage[3] means, to divest me of all Military Authority, I should be Deficient in my Duty was I not to represent to your Lordship the Inconveniencys to His Majestys Service, which in my Opinion, must necessarily happen from such a Step.

It must be allowed that without a Military Force this lately Conquerd Province cannot be Govern'd, there doeth not exist in it above One hundred protestant Subjects exclusive of the Troops, And by my instructions of these hundred Protestants must be composed the Magistracy, But what Force, what weight, can such a Magistracy have, unless the Supreme Magistrate has the Disposition of the Military Force; if he has not, it is to be apprehended that the People will be oppressd by the Soldiery, that the Civil Governor, and his Officers, will become Contemptable, and in place of being the means of preserveing order, and promoteing the happiness of

[1] From Public Record Office, as copied in Canadian Archives, vol. Q 2, p. 206.

[2] The friction which developed between Murray at Quebec and Gage and Burton at Montreal and Three Rivers, and afterwards Burton and Haldimand at these places, is evidenced in numerous letters between these officers and with the Home Government, as given in various volumes of the Haldimand Papers, e. g. B 1, B 2, B 6, B 9, and in Q 2, in Canadian Archives.

[3] In Aug. 1763, upon Sir Jef. Amherst being granted leave to return to Britain, Maj. Gen. Gage was appointed, for the time, Commander in Chief of the Forces in America. In Sept., 1764, Sir Jef. Amherst having decided not to return to America, Gen. Gage received his regular Commission as Commander in Chief. *See Calendar of Home Office Papers, 1760-1765,* Nos. 967 & 1449.

the Subject, they may from the Natural Jealousy that such an Establishment will produce become the bane of Peace, As the weak efforts they will of course make in Support of their Authority, can be productive of Nothing but Vexation, and Confusion.

The Canadians are to a man Soldiers, and will naturally conceive that he who Commands the Troops, should govern them; I am convinced at least it will be easyer for a Soldier to introduce and make palateable to them Our Laws, and Customs, than it can be for a Man degraded from *the Profession of Arms;* It may be impertinent to say more on a Subject I think so obvious, I have only therefore to entreat your Lordship may be assured that this Remonstrance proceeds from Nothing, but the desire, and Anxiety I have to execute the trust reposed in me, with Propriety, and to the Satisfaction of His Majesty, and his Servants.

I by no means think it right, That the Governor of Quebec should be upon the American Staff. His Appointments are no doubt Sufficient to Support the Dignity of his Office, and the Occupations of it, will necessaryly require his immediate Attendance in the Province, Whereas that of the General Officers of this Establishment will beyond a doubt be necessary in the upper Countrys, where the Posts to watch the Indians, and to regulate the Trade with them will be established; All I plead for is the necessity of having the Disposition of the Troops destined for the Security of the Province intrusted to my care, that they may pay me the usual Complements, and receive from me the Parole; I doe not even desire to interfere with the Œconomy of those Troops, that may be left to the Senior Officer in the Province or the nearest Brigadier upon the Staff. If however for reasons I do not forsee, His Majesty shal think it expedient that no Civil Governor in America shal have any Military Command, I have only to Lament my Singular ill fortune, in being the first Man upon the Spot with his Regiment, and that in his own Garrison too, who was Commanded by a Junior Officer, in a Country where he had the honor to exert his Military facultys to the Satisfaction of His Royal Sovereigns.[1]

I have the honor to be with the utmost Truth and Regard My Lord,

Your Lordship's most Oblidged, most Obedient, and most

faithfull humble Servant

JA: MURRAY

To the Right Hon[ble]
The Earl of Hallifax

[1] In another letter to Halifax, Oct. 30, 1764, complaining of the interference of Gage and Burton, Murray attributes their attitude to jealousy of his promotion to be Governor of Quebec, and suggests that Burton should be removed from his command at Montreal. Replying to his representations, Halifax informs Murray, in his despatch of Jan. 12, 1765, that no change is to be made in the system of military commands in North America, but that Burton had been instructed not to interfere in civil affairs. See Canadian Archives vol. Q 2, pp. 337 & 342.

PRESENTMENTS OF THE GRAND JURY OF QUEBEC.[1]

Presentments of Oct[r] Sessions made at a Continuance thereof by Adjournment held at the Sessions house in the City of Quebec the 16[th] Oct[r] 1764 by the Grand Jury in, and for the said District represent.

1. That the Great Number of inferior Courts establish'd in this province with an intention to administer Justice are tiresome litigious and expensive to this poor Colony as they very often must be attended with the disagreeable necessity of appeals and of course of many exorbitant fees.

2[d] The Great number appointed Justices of the Peace out of so few men of Character legally qualified, and fit to be trusted with determining the liberty and property of his Majesty's Subjects to serve their Country as Jurors, is Burthensome and not practised in other Infant Colonys like this. It can answer no good end, to waste mens time, in attending on Courts where no man is upon the Bench qualified to explain the Law, and sum up the Evidences to the Jury, to prevent its being misled by the Barristers.

4. That in the Southern Colonies, where men qualified to serve the publick are scarce, there are no Jurys calld but when the Chief Justice of the province presides, therefore neither the Lives nor Libertys of his Majesty's Subjects, nor any property above the value of 3£ Sterl[g] are left finally to the decision of the Justices of the Peace, and for the easy and speedy dispatch of Justice there are Annually held three Courts of Common pleas and Two of Sessions or assizes, where Jurys are summon'd in Rotation from the different parts of the province and return'd by Ballots, Yet we are of opinion from the present state of this Colony it would be reasonable to Authorize any three of his Majesty's Justices of the Peace finally to determine the fate of any sum not exceeding Ten pounds without Jury or appeal.

5. We represent also as a very great grievance that the market places are converted into Hutts, Stalls &c. for Nurserys of Idlers, who would out of Necessity be employ'd in several Branches of Industry, such as Fishing Farming &c[a] if not permitted contrary to good policy to occupy and infest the publick Ground.

6. Giving away and turning the Kings Batterys Docks and Wharfs into private property, or suffering them to be so occupy'd, are great Grievances to the Inhabitants of this province.

7. We recommend the exertion of the Laws of the Mother Country for the due observance of the Sabbath that the same may not longer be profaned, by selling, buying keeping open shops, Balls, Routs, Gaming or any other Idle Divertions, for the better accomplishing of which, a Learned Clergyman of a moral and exemplary Life, qualified to preach the Gospel in its primative purity in both Languages would be absolutely necessary.

8. From the sense of the nature of Oaths administred to Jurys as also of the consequences of the matters that may occur for discussion, We in

[1] Canadian Archives; Dartmouth Papers, vol. 1, p. 29. It will be observed that the criticism is largely directed against certain features of the Ordinance of Sept. 17, 1764.

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Justice to Ourselves and our fellow subjects, are resolved never more to sit as Jurors at any Court where some man sufficiently versed in the Law does not preside.

9. We represent that as the Grand Jury must be consider'd at present as the only Body representative of the Colony, they, as British Subjects, have a right to be consulted, before any Ordinance that may affect the Body that they represent, be pass'd into a Law, And as it must happen that Taxes be levy'd for the necessary Expences or Improvement of the Colony in Order to prevent all abuses & embezlements or wrong application of the publick money.

10. We propose that the publick Accounts, be laid before the Grand Jury, at least twice a year to be examined and Check'd by them and that they may be regularly settled every Six months before them, which practice strictly adhered to, will very much prevent the abuses and confusion, too common in these matters.

11. An Ordinance[1] pass'd by the Gov[r] in Council confirming and rendring valid all Decrees of the different military Councils erected in this province before the establishm[t] of the Civil Law[1] may be amended by allowing an Appeal to any of the Civil Courts, if the matter decided in any of the Military Courts exceed the sum of Ten pounds.

12. The Ordinance made by the Governor and Council for establishing Courts of Judicature in this province[2] is grievous and some Clauses of it, We apprehend to be unconstitutional, therefore it ought forthwith to be amended to prevent his Majesty's Subjects being aggrieved any longer thereby.

13. proper regulations regarding the measurement & quality of Fire wood are wanted as well as the following articles. Viz[t]

For regulating Carts and Carriages of every kind.

For clearing and keeping clean the public streets Docks and Landing places.

For sweeping Chimnies to prevent accidents by Fire.

For establishing a publick protestant school and a Poor house.

14. For suppressing gaming houses, in particular that of the Quebec Arms kept by John King in the lower Town, which we have been informed has been very particularly countenanced; and which we ourselves present, from our own Knowledge as a notorious nusance, and prejudicial to the Industry and Trade of this City.

15. Also for the preventing for the future any abuses Arising from (and for the amending of) that well intended order for carrying Lanthorns in the night time, that regular people going about their Lawful Business

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[1] For this ordinance see "Ordinances, Made for the Province of Quebec, by the Governor and Council &c. Que., 1767." p. 16.

[2] This is the Ordinance of Sept. 17, 1764, given at p. 205.

without giving Disturbance to the publick quiet, may not be liable to Imprisonments, by Sentrys serjeants or Officers.

	JAMES JOHNSTON, Foreman
JOHN LYMBURNER	SAM[l] SILLS
—— DUMOND	—— PERRAULT
JOHN DANSER	—— PONEY
—— CHAREST	ALEX[e] MCKINZIE
—— TACHET	PHIL. PAYN
SAM[l] DUNCAN	THOS. STORY
PETER FANEIUL	GILBERT MCRANDDLE
GEO. FRALTON	A DUMAS.
DAN[l] BAYNE	BOISSEAU
THO[s] AYLWYN	AMIOTT

That. Among the many grievances which require redress this seems not to be the least, that persons professing the Religion of the Church of Rome do acknowledge the supremacy and jurisdiction of the Pope, and admit Bulls, Briefs, absolutions &c[a] from that see, as Acts binding on their Consciences, have been unpannelld, en Grand and petty Jurys even where Two protestants were partys, and whereas the Grand Inquest of a County City or Borough of the Realm of Great Britain, are obliged by their Oath to present to a Court of Quarter Sessions or assises, what even appears an open violation of the Laws and Statutes of the Realm, any nusance to the subjects or Danger to his Majesty's Crown and dignity and Security of his Dominions. We therefore believe nothing can be more dangerous to the latter than admitting such persons to be sworn on Jurys, who by the Laws are disabled from holding any Office Trust or Power, more especially in a Judicial Capacity, with respect to which above all other, the Security of his majesty, as to the possession of his Dominions and of the subject as to his Liberty, property and Conscience is most eminently Concern'd.

That. By the Definitive Treaty the Roman Religion was only tolerated in the province of Quebec so far as the Laws of Great Britain admit, it was and is enacted by the 3[d] Jam[s] 1[st] Chap[r] 5[th] Section 8[th] no papist or popish Recusant Convict, shall practice "the Common Law, as a Councellor, "Clerk, Attorney, or Sollicitor nor shall practice the Civil Law, as Advocate "or proctor, nor practice physick, nor be an apothecary, nor shall be a Judge, "Minister, Clerk or Steward of or in any Court, nor shall be Register or "Town Clerk or other Minister or Officer in any Court, nor shall bear any "office or charge, as Captain, Lieutenant, Serjeant, Corporal, or Antient "Bearer or Company of Soldiers nor shall be Captain, Master, or Governor, "or bear any office of Charge, of or in any Ship, Castle or Fortress, but be "utterly disabled for the same, and every person herein shall forfeit one "hundred pounds; half to the King and half to him that shall sue." We therefore believe that the admitting persons of the Roman Religion, who own the authority, supremacy and Jurisdiction or the Church of Rome, as Jurors,

is an open Violation of our most sacred Laws and Libertys, and tending to the utter subversion of the protestant Religion and his Majesty's power authority, right, and possession of the province to which we belong.

That—so many Gentlemen of the Army and in actual service exercising any Judicial Authority, to be unconstitutional nothing but necessity by the want of a sufficient number of subjects qualify'd for the purpose, can excuse, even in a new Country, such an unwarrantable incroachment on the establish'd maxims of a British Government.

The foregoing Representations of Grievances abuses and nusances, we the Grand Jurors of the District of Quebec, believe it our indispensable duty to make from the nature of Our Oath and charge, and from the informations presented to us, as well as what occurs to our own observations, and do strongly recommend the same for redress to all those who by their Sacred Oath, are bound to redress them.

	Jas Johnston Foreman
Thos Story	Jno Lymburner
Alexr McKinzie	Phil. Payne
Saml Sills	Peter Farneuil
Saml Duncan	Jno Danser
Danl Bayne	Gilbert McRandall
Geo. Fulton	A. Dumas
Thos Alwin	

[1]As the presentment made by the protestant members of the Jury, wherein the impannelling of Roman Catholicks upon Grand petty Juries, even where two protestants are the parties, is complained of. As this very presentment has been openly & ungenerously used as a handle to set his Majesty's old & new Subjects at varience in this province, we cannot help endeavourg to set the public right in this particular in which they have been so grossly imposed on: What gave birth to this presentmt. was the following short, but pithy Paragraph, in the Ordinance of the 17th Day of Septr last.

"In all Tryalls in this Court all his Majesty's Subjects in this Colony to be admitted on Juries without any distinction:" This is qualifying the whole province at once for an Office which the best & most sensible people in it are hardly able to discharge: It then occur'd to the Jury that was laying a Subjects life, liberty & property too open, & that both old & new Subjects might be apprehensive of the consequence from the unlimited admission of Jurymen His Majesty's lately acquired Subjects cannot take it amiss, that his ancient subjects remonstrate agt this practice as being contrary to the laws of the realm of England, the benefit of which they think they have a right to, nor ought it to give offence when they demand that a protestant Jury should be impannelled when the litigating parties are protestants such

[1] This document is not dated, but it was evidently prepared some time after the former presentments as it replies to criticisms passed upon them.

were the real motives of the Presentment, and we can aver that nothing further was meant by the quotation from the Statute.

That the subscribers of the presentment meant to remove every Roman Catholick from holding any office or filling any public employment is to all intents and purposes a most vile groundless insinuation & utterly inconsistent: Sentiments & intentions such as these we abhor, & are only sorry that principles do not allow us to admit Roman Catholicks as Jurors upon a cause betwixt two protestants; perhaps theirs hold us in the same light in a Case betwixt two Catholicks, and we are very far from finding fault with them, the same liberty that we take of thinking for ourselves we must freely indulge to others.

STATEMENT BY FRENCH JURORS IN REFERENCE TO THE FOREGOING PRESENTMENTS.[1]

Charrest, Amiot, Tachet, Boisseaux, Poney, Dumont, & Perrault nouveaux Sujets, Grand Jurés dans les districts de Quebec ayant demandés a S. E^ce^ en Conseil la Traduction en François de deux Deliberations faites en Anglois en la Maison du Trois Canons tous les Jurés Assemblée dont une Signée 16^me^ Oct^re^ present Mois des requerants ainsi que des autres Jurés et l'autre Signée des Jurés Anciens Sujets entendant l'Anglois seulement; et les ayant obtenües, ils se sont cru obligés de dire le part qu'ils avoient dans les articles qui composent la premiere Deliberation.

Ils commencent par dire qu'avant la Signature de cette Deliberation il y avoit eu Plusieurs Assemblées, ou Il avoit été question de faire Plusieurs Coupons de Representations sur des feuilles volantes et dont les requerants n'ont eu connoissance que d'une Partie et dont Plusieurs entre celles dont ils ont eu connoissance avoient etés abattuës et rejettées par les Requerants que de toutes les feuilles il fût fait un Precis indubitablement, et que lors qu'il fut fait, il nous fût offert pour le Signer sans qu'il nous fût interpreté, mais seulement, lû en Anglois, que sur la Representation qui fût faite par quelqu'uns de nous, afin qu'il nous fût lû, il nous fut repondu que ce precis n'etoit que le Resumé, des Coupons des Articles proposés et Acceptés dans les Seances dernieres et que le Tems pressoit pour les Porter, et que c'etoit fort inutile.

Ils vont donc d'etailler la part qu'ils ont dans ces differents Articles qui composent cette Deliberation.

1 Article. Non seulement nous n'avons eu aucune connoissance de cet Article, mais même nous nous serions opposé de toutes nos forces à cette proposition comme contraire aux Interêt des Colons nouveaux Sujets de S. M. et comme opposé au Sage Arrêt du Gouverneur et conseil qui voyant la necessité d'etablir une Jurisdiction ou les Nouveaux Sujets, pussent trouver an Azile pour y étre jugés, de francois à francois suivant les Usages, Anciens, et dans leur Langue a été encore sollicité depuis par une

[1] Canadian Archives; Dartmouth Papers, vol. I, p. 40.

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Requête de nommer le Juge de cette Jurisdiction, et que les Requerans avoient signés eux mêmes comme Citoyens; outre la facilité qu'ils auront a etre Jugés dans cette Jurisdiction, ils gagneront plus de la moitié des frais.

2. 3. 4. Art[es] Nous n'avons point compris ces Articles si ils nous ont eté interpretés, et nous ignorons ce qui ce passe dans les differentes Colonies, nous n'avons eu garde de proposer aucuns Changemens de taillés dans ces Articles.

5. Nous avons entendu que les Maisons en bois, et Etaux, dans le Marché etoient contraires a la bonne Police et quelles etoient des Occasions d'incendies.

6. Nous avons proposé à l'occasion des Quais et Chantiers qu'ils fussent destinés a l'usage et la facilité du Commerce Nous pensons que quant aux Batteries qu'elles ne sont point de notre District.

7. Nous avons entendû cette Article en partie et seulement a l'occasion de l'observation du Dimanche. Mais il ne nous a absolument point été expliqué la Proposition d'avoir un Ministre pour precher dans les deux langues l'Evangile.

8. Nous n'avons aucunes Connoissances que cet Article aye été mis en Deliberation.

9 & 10. Ces deux Articles ne nous ont point étés interpretés et nous ne sommes point assez prevoyant pour prendre des Mesures, qui nous parrissent encore fort eloignées par l'esperance ou nous sommes, qu'il ne sera question d'aucune Impôt dans cette Colonie.

11. Nous n'avons point entendu tout cette Article ainsi qu'il est expliqué, nous avons meme fait sentir, combien la Proposition de diminuer la Cour des Appels etoit prejudiciable à la Colonie, en ce que cela ouvriroit une vaste Carriere a des nouveaux procés; que les affaires passées avoient etées jugées suivant la circonstance de Tems, et que les Preuves qui pourroient avoir servies aux jugemens pourroient ne plus exister, ce qui changeroit les Affaires de face; cependant Nous Signames sur ce qu'il l'on nous dit, que cet Article etoit soumis a la volonté du Gouverneur et de son Conseil; et le S. Tachet en fit la Restriction sur une feuille volante restée en depôt, et comme Minutte; nous n'avons point entendu d'ailleurs que l'on proposa de demande une si forte diminution sur les Appels, il n'etoit question que de demander seulement un Amendement.

12. Cet Article ne nous a pas été participé et nous jugeons qu'il n'a été proposé que par ce qu'il est dit dans cette ordonnance,[1] que les Avocats Canadiens, nouveaux Sujets de S. M. pourroient exercer, cette ordonnance nous paroit d'autant plus equitable qu'il est naturel pour les nouveaux Sujets Canadiens de se servir de Personnes qu'ils entendent et de qui Ils Sont entendus, avec d'autant plus de Raisons qu'il n'y a pas un Avocat Anglois qui sçache la langue françoise, et avec lequel il ne falut un Interprette, qui ne rendroit presque jamais le vrai Sens de la Chose, d'ailleurs en quelques

[1] The ordinance of Sept. 17, 1764. See p. 205.

frais exorbitans ne se verroient pas constitué les Parties sans cette sage ordonnance qui fait la Tranquillité des familles.

13. Nous avons une parfaite Connoissance des Articles qui en compose une Partie, comme la Proposition d'établir des Reglemens pour la Mesure du Bois, pour le Charetiers et Voiturages de toutes espaces, le moyen d'entretenir les Rues nettes, les Places publiques, et le quais, pour le Rammouage des Cheminés à fin de prevenir les Accidents du feu, c'est à ces seuls Articles auxquels nous avons déféré notre consentement, et notre situation presente ne nous a pas permis d'etendre nos soins plus loins.

14. Il n'a été question de parler des Maisons de Jeu que dans une conversation vague, et nous n'avons pas cru que l'on parla assez serieusement pour que cela meritat de deliberer, si on proposeroit de les denoncer comme Maisons suspectes, et particulierement celle du Nommé Roy, à qui aucuns de nous ne peut faire de crime de la Protection que lui accordent ceux qu'il a le Talent de bien Servir; au reste nous fûmes dans le cas de dire dans la conversation qui si l'on jouoit à des Heures indües, et a des Jeux proscrits par la Police, que cette Article pourroit etre representé comme pernicieux à la jeunesse, et au Commerce, mais nous n'avons absolument eu aucune Connoissance que cet Article fut dans la deliberation que nous avons signée.

15. Nous n'avons point entendu cet Article dans le Sens ou il est exposé, il s'en faut bien nous n'ignorions point que c'etoit à la demande et a la Sollicitation de la Ville, et pour la Sureté d'icelle que l'ordre de porter les Lanternes avoit été obtenu, et nous croyons qu'il est encore de la seureté de la Ville, et du bon ordre de sen servir, nous avons même repondu dans ce Gout en françois à une lettre du Gouverneur de cette Province, ce dernier Jour de notre Seance, sur ce qu'il proposoit d'etablir des Lanternes publiques, si le Coût n'en eut point été considerable, plusieurs de nos Confreres l'ont lu quoique en françois et nous ont dits qu'ils repondoient dans le même sens de leur Côté en Anglois.

Nous conçevons aisément qu'à fin d'éviter la Cacafone a l'avenir, que les Jurés Canadiens ne doivent donner leurs Sentiments qu'apres la Traduction en langue francoise des Objets sur lesquels on le leur demandera.

Par la connoissance que nous les G^d^ Jurés Canadiens nouveaux Sujets de S. M^te^ avons lû en langue francoise de la Representation que nos Confreres les Anciens Sujets grand Jurés, ait faits à la Cour de Seance, & deux Signée, aux fins de nous exclure de l'avantage de servir nous et les Notres, notre Patrie, et notre Roy; se faisant une Conscience de nous Croire inhabilles a Posseder aucun employ, n'y même a repousser et combattre les Ennemies de S. M^te^ nous representons la Dessus.

Que S. M^te^ etant instruite que tous les Sujets qui composent cette Province etoient Catholiques les a crûs habilles en la d.'qualité a preter le Serment de Fidelité, et capable par cette Raison de pouvoir etres admis a être utilles à leur Patrie de la façon dont on les y croiroit propres, ce seroit mal penser de croire que les Canadiens Nouveaux Sujets ne peuvent servir

leur Roy, ni comme Sergent, ni comme Officiers; ce seroit un Motif bien humiliant, et bien decourageant pour des Sujets libres et assoissiés aux Avantages de la Nation, et au Prerogative, ainsy que s'en est expliqué S. M. nous avons depuis plus de six Mois des Officiers Canadiens Catholiques dans le pais d'Enhauts, et Nombre de Volontaires pour y aides a repousser les Ennemis de la Nation[1] et celui qui s'expose librement a verser son Sang au Service de son Roy et de la Nation, ne peut il pas etre admis dans les charges ou il peut egalement servir la Nation et le Publique comme Juré, des qu'il est Sujet, le 3e de Jacques premier Chap. 5. Sec. 8 ne Regarde que les Catholiques qui pourroient veni dans le Royaume, et il n'y eut jamais de loix dans aucun Royaume sans exception, *avoit preuve dans le tems que l'Angleterre assorieroit aux prerogatives de la Nation une Colonie de Catholiques, si nombreuse ou si en l'avoit prevu, la loix vouloit elle en faire des esclaves, nous pensons differement que nos Confreres; et si nous etions dans l'opinion ou ils sont, nous aurions assez de Confiance dans la Bonté du Roy pour croire qu'il accorderoit à tout le Nombreux peuple de cette Colonie le delai suffisant, pour en sacrifiant tous leurs biens, aller, Grater la Terre, dans desespoir, ou en les regardant comme Sujets, ils pourroient mettre leur Vie, et celle de leur Enfants à la Crie de l'injustice, ce qu'ils ne pourroient faire en restant icy, privés des Employs, ou charges en qualités de Jurés.

La Douceur d'un Gouvernement actuel nous a fait oublier nos pertes, et nous a attaché à S. M. et au Gouvernement, nos Confreres nous font envisager notre Etat comme celui d'Esclaves; les veritables et fideles Sujets du Roy peuvent ils le devinir.

Ce qui nous fait conclure aux Protestations que nous faisons contre nos Signatures de la deliberation du Seize du Courant, en tout ce qu'elles pourroient nous prejudicier.
fait a Quebec le 26e Octr, 1764.

BONNEAU, PERRAULT
TACHET, CHAREST, AMIOT PENEY DAMONT.

(*Translation*)

Charrest, Amiot, Tachet, Boisseaux, Poney, Dumont & Perrault new Subjects, Grand Jurors in the districts of Quebec, having demanded from His Excellency in Council the Translation into French of two Presentments written in English in the House of the Three Canons, all the Jurors being assembled, one of which presentments of the 16th of the present month of October, was signed by the petitioners along with the other jurors, and the other was signed by the jurors who were ancient subjects understanding English alone, and having obtained the same, they consider

[1] Referring to the French-Canadian troops which Governor Murray was partially successful in raising, under the volunteer system, for the purpose of assisting in the suppression of the Indian uprising at Michillimakinak and elsewhere, under Pontiac. See Canadian Archives; Bouquet Papers; Haldimand Papers, vols. B 2, B 6, B 9; also Q 2.

* Some line must have been omitted here, for as it is, it is not Sense.

themselves bound to declare the part which they had taken in the articles which compose the first Presentment.

They begin by saying that before the Signature of this Presentment, there had been many sessions, where the question had been discussed by making Several Drafts of Presentment on loose sheets, and of these the petitioners had knowledge of only a part while many of those, with the contents of which they were acquainted, had been modified or rejected by the Petitioners; that a Summary certainly had been made of all the papers, and that after it was made, it was offered to us for Signature, without being interpreted, but was read in English only, that when it was requested by some of us, that it should be read to us, the answer was that this summary was only a Résumé of the Drafts of the Articles which had been proposed and accepted during the late Sessions, that time pressed for their presentation and that it was very unnecessary.

They intend therefore to set forth the part which they have had in the different Articles which compose this Presentment.

1. Article. Not only had we no knowledge of this Article, but we should certainly have opposed this proposition with all our might, as being contrary to the interests of His Majesty's New Subjects in the Colony, and as being opposed to the wise ordinance of the Governor and Council, who, seeing the necessity of establishing a Court of Justice where the New Subjects should be able to find a Sanctuary in which they might be judged as Frenchmen by Frenchmen, according to Ancient Customs, and in their own Tongue, has since been requested in a Petition to name the Judge of this Jurisdiction and which the Petitioners themselves have signed as Citizens; for besides the convenience that it would be to them to be judged in this Jurisdiction, they would save more than half the costs.

2, 3, 4, Art^{es}. We did not understand these Articles if they were interpreted to us, and as we are ignorant of what is going on in the different Colonies, we have no interest in proposing any particular alterations in these Articles.

5. We understand that wooden Houses and Stalls in the Market are contrary to good Policy, and are sometimes the Causes of Fires.

6. We have suggested with regard to the Quays and Dockyards that they should be allotted for the use and convenience of Trade. As to the Batteries we do not consider that they appertain to our Department.

7. We have heard this Article in part, and only in connection with Sunday observance. But the Proposal of having a Minister to preach the Gospel in both languages has certainly not been explained to us.

8. We have no Knowledge that this matter has ever been brought up for Consideration.

9 & 10. These two Articles have not been explained to us, and we are not sufficiently far-seeing to pay attention to Measures which at present appear to us very remote, owing to the hope which we entertain that no question of Taxation for this Colony will arise.

11. We have not understood this whole Article as it is explained. We have even demonstrated how prejudicial to the Colony, was the Proposition to diminish the Court of Appeals, in that it would open a wide road to new lawsuits, that past cases had been settled according to the circumstances of the Time, and that Proofs which might have been valid for judgments then, could no longer be in existence, which would completely change the aspect of Things; however, accepting what we were told, that this Article was subject to the Will of the Governor and His Council, we subscribed to it and the S. Tachet made a note of the reservation on a loose sheet, which was left at the office, as a Minute. Moreover we had not heard that a request for such a large reduction on the Appeals was asked for, it having only been a question of asking for an Amendment.

12. This Article has never been communicated to us, and we imagine it was only proposed, because it is stated in that ordinance, that Canadian Lawyers, New Subjects of H. M. might practise. The ordinance appears to us the more equitable, in that it is only right that the new Canadian Subjects should employ Persons whom they understand, and by whom They are understood, all the more because there is not one English Lawyer who knows the French Language, and with whom it would not be necessary to employ an Interpreter who would scarcely ever give the exact meaning of the Matter in hand. And further, without this wise regulation which ensures the Tranquillity of domestic affairs would not the opposing Parties find themselves involved in exorbitant expense?

13. We are thoroughly familiar with the Items which form a Part of this Article, such as the Proposal to establish Regulations for the Measuring of Wood, for Carters and Vehicles of every description, for the best method of keeping the Streets, public Squares, and Docks clean, and for the Sweeping of Chimneys to prevent Accidents by fire. We have given our consent solely to these Items, and our present situation does not allow us to extend our care in other directions.

14. There has been no question of discussing Gaming Houses except in desultory conversation, and we did not suppose it had been spoken of seriously enough to make it worth while to consider, if it was proposed to denounce them as suspicious Houses, especially that of the said King, to whom none of us can attribute as a crime the Protection which is granted him by those whom he has the Faculty of Serving so well. Besides this we did happen to say in conversation that if they were playing at unseasonable Hours, and at Games proscribed by the Police, then this Article might represent it as dangerous to youth and to Trade, but we have absolutely no knowledge that this Article was in the Presentment which we have signed.

15. We did not understand this Article in the Sense in which it is explained. Of course we were aware that it was at the request and Solicitation of the Town, and for the safety of the same, that the order to carry Lanterns had been obtained, and we believe that it certainly would conduce to the security of the Town and to good order to carry it out. We have replied

to this Effect in French to a letter from the Governor of this Province, on the last Day of our Session, at which time he proposed to establish public lamps, if the Cost was not excessive. Although written in French, many of our Fellow-members read it, and have told us that they on their side replied to the same effect in English.

We quite realize that in order to avoid Confusion in the future, Canadian Jurors should give their Opinions only after the Subjects on which it is asked have been translated into the French Language.

In view of the knowledge that we, the G[d] Jurors, Canadian new Subjects of H. M. have,—having read it in the French tongue,—of the Presentment which our confreres, the Ancient Subjects, Grand Jurors, have made at the Court of Session, and of the two Subscriptions, with the intention of excluding us from the privilege of serving ourselves and Our associates, our Country and our King, pretending that they conscientiously believe us to be incapable of holding any office or even of repulsing and fighting the Enemies of H. M[ty] We make the following statement.

That H. M[ty] being informed that all the Subjects forming this Province were Catholics still believed them capable as such of taking the Oath of Loyalty, and therefore fit to be admitted to the service of their Country, in such a way as they shall be thought qualified for. It would be shameful to believe that the Canadians, New Subjects, cannot serve their King either as Serjeant, or Officers, it would be a most humiliating thought, and very discouraging to free Subjects who have been admitted to the Privileges of the Nation, and their Rights, as explained by H. M. For more than six Months we have had Catholic Canadian Officers in the Upper Country, and a Number of Volunteers aiding to repulse the Enemies of the Nation; and cannot a man who exposes himself freely to shed his blood in the Service of his King and of the Nation be admitted to positions where he can serve the Nation and the Public as a Juror, since he is a subject? The 3[rd] of James I. Chap. 5, Sec. 8, only refers to Catholics who may enter the Kingdom, and as there has never been any law in any Kingdom without some exception* was a proof that in time England would admit to the National rights so numerous a Colony of Catholics, or if this had been foreseen, that the Law would seek to make them slaves. We think differently from our confreres, and even if we were of their opinion, we should have enough Confidence in the King's Goodness to believe that he would grant all the Numerous people of this Colony sufficient respite to depart, though at the sacrifice of all their possessions, and in desperation cultivate the Ground, in some place, where being considered as Subjects, they and their Children might lead their Lives sheltered from Injustice. This they could never do here were they deprived of all Offices, or positions as Jurors.

The Leniency of the existing Government has made us forget our losses, and has attached us to H. M. and to the Government; our fellow

* Some line must have been omitted here, for as it is, it is not sense.

citizens make us feel our Condition to be that of Slaves. Can the faithful and loyal Subjects of the King be reduced to this?

This ends the Protest that we make against the use of our Signatures on the Presentment of the Sixteenth instant, in every point in which they might be prejudicial to us. Done at Quebec the 26th October, 1764.

PERRAULT, BONNEAU,
TACHET, CHAREST,
AMIOT, PENEY,
DAMONT.

ADDRESS OF FRENCH CITIZENS TO THE KING REGARDING THE LEGAL SYSTEM[1]

AU ROI

La véritable gloire d'un Roy conquérant est de procurer aux vaincus le même bonheur et la même tranquilité dans leur Religion et dans la Possession de leurs biens, dont ils joüissoient avant leur deffaite: Nous avons joüi de cette Tranquilité pendant la Guerre même, elle a augmentée depuis la Paix faitte. Hé voilà comme elle nous a été procurée. Attachés à notre Religion, nous avons juré au pied du Sanctuaire une fidelité inviolable à Votre Majesté, nous ne nous en sommes jamais écartés, et nous jurons de nouveau de ne nous en jamais écarter, fussions nous par la suitte aussy malheureux que nous avons été heureux; mais comment pourrions nous ne pas l'être, après les Temoignages de bonté paternelle dont Votre Majesté nous a fait assurer, que nous ne serions jamais troublés dans l'exercise de notre Religion.

Il nous a parû de même par la façon dont la Justice nous a été rendüe jusqu'à présent, que l'intention de Sa Majesté étoit, que les Coutumes de nos Peres fussent suivies, pour ce qui étoit fait avant la Conquête du Canada, et qu'on les suivit à l'avenir, autant que cela ne seroit point contraire aux Loix d'Angleterre et au bien général.

Monsieur Murray, nommé Gouverneur de la Province de Quebec à la satisfaction de tous les Habitans, nous a rendu jusques à present à la Tête d'un Conseil militiare toute la Justice que nous aurions pû attendre des personnes de Loi les plus éclairés; cela ne pouvoit être autrement; le Désinteressement et l'Equité faisoient la Baze de leurs Jugements.

Depuis quatre ans nous jouissons de la plus grande Tranquilité; Quel bouleversement vient donc nous l'enlever? de la part de quatre ou Cinq Persones de Loy, dont nous respectons le Caractère, mais qui n'entendent point notre Langue, et qui voudroient qu'aussitôt qu'elles ont parlé, nous puissions comprendre des Constitutions qu'elles ne nous ont point encore expliquées et aux quelles nous serons toujours prêts de nous soumettre, lorsqu'elles nous seront connües; mais comment les Connoître, si elles ne nous sont point rendües en notre Langue?

[1] Canadian Archives; B 8, p. 121.

De là, nous avons vu avec peine nos Compatriotes emprisonnés sans être entendus, et ce, à des fraix considèrables, ruineux tant pour le débiteur que pour le Créancier; nous avons vu toutes les Affaires de Famille, qui se décidoient cy-devant a peu de frais, arrêtées par des Personnes qui veulent se les attribuer, et qui ne savent ny notre Langue ni nos Coutumes et à qui on ne peut parler qu'avec des Guinées à la Main.

Nous esperons prouver à Votre Majesté avec la plus parfaite Soumission ce que nous avons lhonneur de luy avancer.

Notre Gouverneur à la Tête de son Conseil a rendu un Arrêt[1] pour l'Etablissement de la Justice, par lequel nous avons vu avec plaisir, que pour nous soutenir dans la Décision de nos affaires de famille et autres, il seroit etabli une Justice inférieure, où toutes les Affaires de François à François y seroient decidées; Nous avons Vu que par un autre Arrêt,[2] pour eviter les Procès, les affaires cy-devant décidées seroient sans appel, à moins qu'elles ne soient de la Valeur de trois Cents Livres.

Avec la même Satisfaction que nous avons vu ces Sages Réglements avec la même peine avons nous vu que quinze Jurés Anglois contre Sept Jurés nouveaux Sujets, leur ont fait souscrire des Griefs en une Langue quils n'entendoient point contre ces mêmes Réglements; ce qui se prouve par leurs Protestations et par leurs Signatures qu'ils avoient données la veille sur une Requête pour demander fortement au Gouverneur et Conseil la Séance de leur Juge, attendu que leurs Affaires en souffroient.

Nous avons vu dans toute l'amertume de nos Cœurs, qu'après toutes les Preuves de la Tendresse Paternelle de Votre Majesté pour ses nouveaux Sujets ces mêmes quinze Jurés soutenus par les Gens de Loy nous proscrire comme incapables d'aucunes fonctions dans notre Patrie par la difference de Religion; puisque jusqu'aux Chirurgiens et Apothicaires (fonctions libres en tout Pays)en sont du nombre.

Qui sont ceux qui veulent nous faire proscrire? Environ trente Marchands anglois, dont quinze au plus sont domiciliés, qui sont les Proscrits? Dix mille Chefs de famille, qui ne respirent, que la soumission aux Ordres de Votre Majesté, ou de ceux qui la représentent, qui ne connoissent point cette prétendue Liberté que l'on veut leur inspirer, de s'opposer à tous les Réglements, qui peuvent leur être avantageux, et qui ont assez d'intelligence pour Connoître que leur Interêt particulier les conduit plus que le Bien public—

En Effet que deviendroit le Bien Genéral de la Colonie, si ceux, qui en composent le Corps principal, en devenoient des Membres inutiles par la différence de la Religion? Que deviendroit la Justice si ceux qui n'entendent point notre Langue, ny nos Coutûmes, en devenoient les Juges par le Ministere des Interprètes? Quelle Confusion? Quels Frais mercenaires n'en résulteroient-ils point? de Sujets protégés par Votre Majesté, nous

[1] The ordinance of Sept. 17th, 1764. See p. 205.
[2] The ordinance of Sept. 20th, 1764. See "Ordinances, made for the Province of Quebec, &c." 1767.

deviendrons de véritables Esclaves; une Vingtaine de Personnes, que nous n'entendons point, deviendroient les Maitres de nos Biens et de nos Interets, plus de Ressources pour nous dans les Personnes de Probité, aux quelles nous avions recours pour l'arrangement de nos affaires de famille, et qui en nous abandonnant, nous forceroient nous mêmes à préferer la Terre la plus ingrate à cette fertile que nous possedons.

Ce n'est point que nous ne soyons prêts de nous soumettre avec la plus respectueuse obéissance à tous les Réglements qui seront faits pour le bien et avantage de la Colonie; mais la Grace, que nous demandons, c'est que nous puissions les entendre: Notre Gouverneur et son Conseil nous ont fait part de ceux qui ont été rendus, ils sont pour le Bien de la Colonie, nous en avons temoigné notre reconnoissance; et on fait souscrire à ceux qui nous représentent, comme un Mal, ce que nous avons trouvé pour un Bien!

Pour ne point abuser des Moments précieux de Votre Majesté, nous finissons par l'assurer, que sans avoir connu les Constitutions Angloises, nous avons depuis quatre Ans goûté la douceur du Gouvernement, la gouterions encore, si Mess[rs] les Jurés anglois avoient autant de soumission pour les décisions sages du Gouverneur et de son Conseil, que nous en avons; si par des Constitutions nouvelles, qu'ils veulent introduire pour nous rendre leurs Esclaves, ils ne cherchoient point à changer tout de suite l'ordre de la Justice et son Administration, s'ils ne vouloient pas nous faire discuter nos Droits de famille en Langues etrangères, et par là, nous priver des Personnes éclairées dans nos Coutumes, qui peuvent nous entendre, nous accommoder et rendre Justice à peu de frais en faisant leurs Efforts pour les empêcher même de conseiller leurs Patriotes pour la difference de Religion, ce que nous ne pouvons regarder que comme un Interêt particulier et sordide de ceux qui ont suggéré de pareils principes.

Nous supplions Sa Majesté avec la plus sincère et la plus respectueuse soumission de confirmer la Justice, qui a été établie pour déliberation du Gouverneur et Conseil pour les François, ainsy que les Jurés et tous autres de diverses Professions, de conserver les Notaires et Avocats dans leurs Fonctions, de nous permettre de rédiger nos Affaires de famille en notre Langue, et de suivre nos Coutumes, tant qu'elles ne seront point Contraires au Bien général de la Colonie, et que nous ayons en notre Langue une Loy promulguée et des Ordres de Votre Majesté, dont nous nous déclarons, avec le plus inviolable Respect,[1]

[1] Apparently in consequence of these representations, an additional instruction to Murray was framed and sent in the latter part of 1764, although the exact date is not given. As contained in the Dartmouth Papers, it appears as follows:—

1764. Instructions to Murray. That the misconstruction of the proclamation of 7th October, 1763, be removed and that in making provision for the due and impartial administration of justice that there shall extend to all "subjects in general the protection and benefit of the "British laws and constitution in all cases where their Lives and Liberties are concerned. But "shall not operate to take away from the native Inhabitants the Benefit of their own Laws and "Customs in Cases where Titles to Land, and the modes of Descent, Alienation and Settlement "are in Question, nor to preclude them from that share in the Administration of Judicature, "which both in Reason and Justice they are intitled to in Common with the rest of our subjects." The proposed instructions with notes of alterations suggested. The instructions as finally sent are in the Colonial Office. Canadian Archives, Dartmouth Papers, M 383, p. 50.

Les plus fidèles Sujets

Amiot—Juré
Boreau—Juré
Perrault Che reg[l]
Tachet—Juré
Charest—Juré
Perrault—Juré
Boiret Ptre Superieur du Seminaire
Dumond, Juré
Isel Becher. Curé de Quebec
Etesanne fils ayné
Conefroy
Robins
LeFebure
Soupiran
Rousseau
Petrimouly
Larocque
Launiere
Alxre Picard
Ginnie
Boileau
Delerenni
Liard (orLard)
(Dubarois or) Dubaril, Chirurgn
Chartier de Lotbiniere
Asime
F. Duval
Hec. Keez
Huquet
Schindler
La Haurriong
Lerise
Panet,

J. Labroix (or Lauroix)
Gueyraud
Voyer (or Voyez)
F. Valin
Bellefaye (or Bellefincke)
Rey
Marchand
J. Lemoyne
Jean Amiot
Bertran (or rem)
Gauvereau
Carpentier (or Charpeniser)
Coocherar (or eer)
Vallet
Duttock
Meux Vrosseaux
H. Parent
Ferrant
Boireux
Dusseil (or Dufiel)
H. Loret
Berthelot (or elole)
Arnoux
Neuveux
Laroche
Th. Caroux
Guichass
Jacques Hervieux negt de Montreal
Guy de Montreal
J. Ferroux
S. Jt Meignot

Lorrande Du Perrin (or Duperrin)
Laurain
Chrétien
P. Goyney
Voyer (or Voyez)
Le Maitre Lamorille
Franc Ruilly
Jean Baptiste Dufour
Portneuf (or Borneuf)
L. D. Dinnire (or ere)
Thomas Lec (or Lee)
Soulard
Parroix
Riverin
Liard fils—
Fs Dambourgès
Messuegué
L. Dumas
Robins Fil
Redout
Fromont
Fl. Cuynet
Gigon
Dennbefrire
Paul Marchand
Duvonuray
Sanguineer
Au. Bederd
Le Cte Dupré l'aisne
S. George Dupré
Gl des Milice de Montreal

Endorsed. Quebec.

Copy of the Adress of the principal Inhabitants of Canada to the King, relative to the Establishment of Courts of Justice, and the Presentment of the Grand Jury.

Original sent to His Majesty.

Read Janry 7, 1765.

SESSIONAL PAPER No. 18

(*Translation*)

TO THE KING

The true Glory of a Victorious King consists in assuring to the vanquished the same happiness and the same tranquillity in their Religion and in the possession of their property that they enjoyed before their defeat. We have enjoyed this Tranquillity even during the War, and it has increased since the establishment of Peace. Would that thus it had been secured to us! Deeply attached to our religion, we have sworn at the foot of the altar, unalterable fidelity to Your Majesty. From it we have never swerved and we swear anew that we never will swerve therefrom, although we should be in the future as unfortunate as we have been Happy: but how could we even be unhappy after those tokens of paternal affection by which Your Majesty has given us the assurance that we shall never be disturbed in the Practice of our Religion.

It has seemed to us indeed from the manner in which Justice has been administered among us up to the present time, that it was His Majesty's Intention that the Customs of our Fathers should be adhered to, so that what was done before the Conquest of Canada should be adhered to in the future in so far as it was not opposed to the Laws of England, and to the public good.

Mr. Murray, who was appointed Governor of the Province of Quebec to the satisfaction of all its inhabitants, has up to the present time, at the head of a Military Council administered to us all the justice that we could have expected from the most enlightened jurists. This could hardly have been otherwise, Disinterestedness and Equity being the basis of their decisions.

For four years we enjoyed the greatest tranquillity. By what sudden stroke has it been taken away through the action of four or five jurists, whose character we respect, but who do not understand our language, and who expect us, as soon as they have spoken, to comprehend legal constructions which they have not yet explained, but to which we should always be ready to submit, as soon as we become acquainted with them, but how can we know them, if they are not delivered to us in our own tongue?

It follows, that we have seen with grief our fellow citizens imprisoned without being heard, and this at considerable expense ruinous alike to debtor and creditor; we have seen all the family affairs, which before were settled at slight expense, obstructed by individuals wishing to make them profitable to themselves, who know neither our language nor our customs and to whom it is only possible to speak, with guineas in one's hand.

We hope to prove to your Majesty with all due submission the statements which we have the honour to lay before him.

Our Governor, at the Head of his Council, has issued an ordinance for the Establishment of Courts, by which we were rejoiced to see, that

to assist us in the settlement of family and other matters, a Lower Court of Justice was to be established where all cases between Frenchman and Frenchman could be decided. We have seen that by another ordinance, to avoid lawsuits, cases decided by this court should be without appeal, unless they were of the value of three Hundred *Livres*.

In proportion to the greatness of our Joy on seeing these wise regulations, was the distress with which we discovered that fifteen English Jurors as opposed to seven Jurors from the new Subjects had induced the latter to subscribe to Remonstrances in a language which they did not understand against these same Regulations. This is proved by their Remonstrances and Signatures of the evening before, in a Petition in which they urgently beg the Governor and his Council that their Judge may hold a sitting as their affairs were suffering for want of it.

With deep bitterness in our hearts we have seen, that after all the proofs of Your Majesty's Paternal Affection for your new Subjects, these same fifteen Jurors, with the assistance of the Lawyers have proscribed us as unfit, from differences of Religion, for any office in our country; even Surgeons and Apothecaries (whose professions are free in all countries) being among the number.

Who are those who wish to have us proscribed? About thirty English merchants, of whom fifteen at the most, are settled here. Who are the Proscribed? Ten thousand Heads of Families who feel nothing but submission to the orders of Your Majesty, and of those who represent you, who do not recognize as such this socalled Liberty with which the other party desire to incite them to opposition to all the Regulations which might be to their advantage, and who have enough intelligence to see that these persons are guided by their own Interest rather than the public good.

And in fact what would become of the general prosperity of the Colony, if those who form the principal section thereof, become incapable members of it through difference of Religion? How would Justice be administered if those who understand neither our Language nor our Customs should become our Judges, through the Medium of Interpreters. What confusion, what Expenditure of Money would not result therefrom? Instead of the favoured Subjects of Your Majesty, we should become veritable Slaves; a Score of Persons whom we do not know would become the Masters of our Property and of our Interests; We should have no further Redress from those equitable Men, to whom we have been accustomed to apply for the settlement of our Family Affairs, and who if they abandoned us, would cause us to prefer the most barren country to the fertile land we now possess.

It is not that we are not ready to submit with the most respectful obedience to all the Regulations which may be made for the Wellbeing and Prosperity of the Colony, but the favour which we ask is that we may be allowed to understand them. Our Governor and his Council have

instructed us concerning those which have been already issued. They are for the good of the Colony, we have shown our Gratitude for the same, and yet now we are made to represent as a hardship by those who are speaking in our name, what we have found to be a benefit.

That we may not further encroach upon Your Majesty's Precious Time, we conclude by assuring You, that without knowing the English Constitution we have during the past four years, enjoyed the Beneficence of the Government, and we should still enjoy it, if Mess[rs] the English Jurors were as submissive to the wise decisions of the Governor and his Council, as we are; if they were not seeking by new regulations, by the introduction of which they hope to make us their slaves, to change at once the order and administration of Justice, if they were not desirous of making us argue our Family Rights in a foreign tongue, and thereby depriving us of those Persons, who from their knowledge of our Customs, can understand us, settle our differences, and administer Justice at slight expense; using every effort, on the plea of the difference of Religion, to prevent them even from acting as Counsel for their fellow countrymen. This we can only regard as due to the base anxiety for their own interests of those who have suggested such Principles.

We entreat Your Majesty with the deepest and most respectful submission to confirm the system of Justice which has been established for the French, by the deliberations of the Governor and Council, as also the Jurors and all others of different professions, to maintain the Notaries and advocates in the exercise of their functions, to permit us to transact our Family Affairs in our own tongue, to follow our customs, in so far as they are not opposed to the general Wellbeing of the Colony, and to grant that a Law may be published in our Language, together with the Orders of Your Majesty, whose most faithful Subjects, we do, with the most unalterable Respect, hereby declare Ourselves.

The most faithful Subjects.

ORDINANCE OF NOV. 6[th] 1764[1]

An ORDINANCE, For quieting People in their Possessions, and fixing the Age of Maturity.

WHEREAS it appears right and necessary, to quiet the Minds of the People, in Regard to their Possessions, and to remove every Doubt respecting the same, which may any Ways tend to excite and encourage vexatious Law-Suits; and until a Matter of so serious and complicated a Nature, fraught with many and great Difficulties, can be seriously considered, and such Measures therein taken, as may appear the most likely to promote the Well-fare and Prosperity of the Province in general, His Excellency, by and with the Advice and Consent of His Majesty's Council, *Doth hereby*

[1] "Ordinances, made for the Province of Quebec, by the Governor and Council, &c. "Que. 1767, p. 18.

Ordain and Declare, That until the tenth Day of *August* next, the Tenures of Lands, in Respect to such Grants as are prior to the Cession thereof, by the definitive Treaty of Peace, signed at *Paris* the tenth Day of *February*, One Thousand Seven Hundred and Sixty-three, and the Rights of Inheritance, as practised before that Period, in such Lands or Effects, of any Nature whatsoever, according to the Custom of this Country, shall remain to all Intents and Purposes the same, unless they shall be altered by some declared and positive Law; for which Purpose the present Ordinance shall serve as a Guide and Direction in all such Matters, to every Court of Record in this Province; Provided that nothing in this Ordinance contained shall extend, or be construed to extend to the Prejudice of the Rights of the Crown, or to debar His Majesty, His Heirs or Successors from obtaining, by due Course of Law, in any of His Courts of Record in this Province, according to the Laws of *Great-Britain*, any Lands or Tenements, which at any Time hereafter may be found to be vested in His Majesty, his Heirs or Successors, and in the Possession of any Grantee or Grantees, his, her, or their Assigns, or such as claim under them, by Virtue of any such Grants as aforesaid, or under Pretence thereof, or which hereafter may be found to have become forfeited to His Majesty, by Breach of all or any of the Conditions in such Grants respectively mentioned and contained.

And be it Ordained and Declared, by the Authority aforesaid, That from and after the first Day of *January*, One Thousand Seven Hundred and Sixty-five, every Person arrived at the Age of Twenty-one compleat Years, shall be deemed for the future of full Age and Maturity agreeable to the Laws of *England*, and shall be entituled to take full Possession from that Time of every Estate or Right to him belonging ; in Consequence thereof to sue for the same, or bring to Account the Guardians, or other Persons who may have been entrusted therewith.

GIVEN *by His Excellency the Honourable* JAMES MURRAY, *Esq.; Captain-General and Governor in Chief of the Province of* QUEBEC, *and Territories thereon depending in* America, *Vice Admiral of the same, Governor of the Town of* Quebec, *Colonel-Commandant of the Second Battalion of the Royal American Regiment*, &c., &c. *In Council, at* Quebec, *the 6th Day of* November, Anno, Domini, 1764, *and in the Fifth Year of the Reign of our Sovereign Lord* GEORGE *the* III, *by the Grace of* GOD, *of* Great-Britain, France *and* Ireland, *KING*, Defender of the Faith, &c., &c.

JA. MURRAY.

By Order of His EXCELLENCY in Council,
H. KNELLER, *D.C.C.*

SESSIONAL PAPER No. 18

GOVERNOR MURRAY TO THE LORDS OF TRADE.[1]

QUEBEC 29th Oct^{r} 1764

MY LORDS

The inclosed papers will shew you the situation of affairs here and how necessary it is for me to send M^{r} Cramahé to London[2] that your Lordships may have the most Minute and Clearest Acc^{t} of every thing relating to this Province. An immediate Remedy seems necessary. To any thing I can write doubts may arise and misrepresentations may be made (which I find too frequently to be the case) the necessary delay to clear up such Doubts and misrepresentations by letters, may be dangerous. M^{r} Cramahé will answer every purpose, if properly attended too, he is thoroughly informed of all I know, no Man has the good of this Colony more at heart, no Man is more zealous for the Kings service and certainly there doth not exist a Man of more Integrity and Application.

Little, very little, will content the New Subjects but nothing will satisfy the Licentious Fanaticks[3] Trading here, but the expulsion of the Canadians who are perhaps the bravest and the best race upon the Globe, a Race, who cou'd they be indulged with a few priveledges w^{ch} the Laws of England deny to Roman Catholicks at home, wou'd soon get the better of every National Antipathy to their Conquerors and become the most faithful and most useful set of Men in this American Empire.

I flatter myself there will be some Remedy found out even in the Laws for the Relief of this People, if so, I am positive the populer clamours in England will not prevent the Humane Heart of the King from following its own Dictates. I am confident too my Royal Master will not blame the unanimous opinion of his Council here for the Ordonnance establishing the Courts of Justice,[4] as nothing less cou'd be done to prevent great numbers from emigrating directly, and certain I am, unless the Canadians are admitted on Jurys, and are allowed Judges and Lawyers who understand their Language his Majesty will lose the greatest part of this Valuable people.

I beg leave further to represent to your Lordship that a Lieu^{t} Governor at Montreal is absolutely necessary, that Town is in the Heart of the most populous part of the Province, it is surrounded by the Indian Nations and is one Hundred and Eighty miles from the Capitol, it is there that the most opulent Priests live, and there are settled the greatest part of the French Nobless, consequently every intrigue to our disadvantage will be laid

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[1] Canadian Archives; vol. Q 2, p. 233.

[2] Mr. H. T. Cramahé had been Civil Secretary for the District of Quebec, from the time that Gen. Murray had been appointed Lt. Governor, after the Conquest. When Canada, following the example of the older colonies, desired to appoint an agent in London, Mr. Cramahé was nominated for the position, in Feb. 1764. The appointment, however, was apparently not made. When civil government was established, in Aug. 1764, Mr. Cramahé became a member of the first Council of the Province.

[3] This letter and the following petitions incidentally reveal the very strained relations, extending to personal bitterness, which existed between Governor Murray and the British commercial element in the colony, and which led to the Governor's recall.

[4] The ordinance of Sept. 17th, 1764. See p. 205.

and hatched there, The expence of a Lieu[t] Governor will be a Trifle, I am positive for some years it will not exceed what will be necessary to procure intelligence in that District, This will be saved if a Man of Authority, Diligence and Observation is at the Head of it on the Spots and I do from the Zeal I have for his Majestys Service and the conviction of my heart, declare, that M[r] Cramahé is the fittest man I know to fill that place; I am at least certain no body can be appointed who will be more agreeable to the new Subjects

I have the Hon[r] to be with the greatest truth & regard.

My Lords,

Y[r] Lordships' mo. Ob[t], &[ca].

The Lords of Trade & Plant[n], (Signed) JA: MURRAY

P.S. I have been informed that Mess[rs] Will[m] Mackenzie Alex[r] Mckenzie and Will[m] Grant have been solliciting their Friends in London to prevail upon your Lordships to get them admitted into his Majesty's Council of this Province. I think it my Duty to acquaint your Lordships that the first of these Men is a notorious smugler and a Turbulent Man, the second a weak Man of Little character and the third a conceited Boy. In short it will be impossible to do Business with any of them

(signed) JA: MURRAY

The Lords of Trade & Plantations

PETITION OF THE QUEBEC TRADERS.[1]

To the King's Most Excellent Majesty

The Humble Petition of Your Majesty's most faithful and loyal Subjects, British Merchants and Traders in behalf of themselves and their fellow Subjects, Inhabitants of your Majesty's Province of Quebec

May it please Your Majesty.

Confident of Your Majesty's Paternal Care and Protection extended even to the meanest and most distant of your Subjects, We humbly crave your Majesty's Gracious Attention to our present Grievances and Distresses

We presume to hope that your Majesty will be pleased to attribute our approaching your Royal Throne with disagreeable Complaints, to the Zeal and Attachment we have to your Majesty's Person and Government, and for the Liberties & Priviledges with which your Majesty has indulged all your Dutifull Subjects.

Our Settlement in this Country with respect to the greatest part of us; takes it's date from the Surrender of the Colony to your Majestys Arms; Since that Time we have much contributed to the advantage of our Mother

[1] Canadian Archives; vol. B 8, p. 6.

SESSIONAL PAPER No. 18

Country, by causing an additional Increase to her Manufactures, and by a considerable Importation of them, diligently applied ourselves to Investigate and promote the Commercial Interests of this Province and render it flourishing

To Military Government, however oppressive and severely felt, we submitted without murmur, hoping Time with a Civil Establishment would remedy this Evil

With Peace we trusted to enjoy the Blessings of British Liberty, and happily reap the fruits of our Industry: but we should now despair of ever attaining those desirable ends, had we not Your Majesty's experienced Goodness to apply to.

The Ancient Inhabitants of the Country impoverished by the War, had little left wherewith to purchase their common necessaries but a Paper Currency[1] of very doubtfull Value: The Indian War[2] has suspended our Inland Trade for two years past, and both these Causes united have greatly injured our Commerce.

For the redress of which we repose wholly on your Majesty, not doubting but the Wisdom of your Majesty's Councils will in due time put the Paper Currency into a Course of certain and regular Payment, and the Vigour of Your Majesty's Arms terminate that War by a peace advantageous and durable.

We no less rely on your Majesty for the Redress of those Grievances we suffer from the Measures of Government practised in this your Majesty's Province, which are

The Deprivation of the open Trade declared by your Majesty's most gracious Proclamation, by the Appropriation of some of the most commodious Posts[3] of the Resort of the Savages, under the Pretext of their being your Majesty's private Domain.

The Enacting Ordinances Vexatious, Oppressive, unconstitutional, injurious to civil Liberty and the Protestant Cause.

Suppressing dutifull and becoming Remonstrances of your Majesty's Subjects against these Ordinances in Silence and Contempt.

The Governor instead of acting agreeable to that confidence reposed in him by your Majesty, in giving a favorable Reception to those of your Majesty's Subjects, who petition and apply to him on such important Occasions as require it, doth frequently treat them with a Rage and Rudeness of Language and Demeanour, as dishonorable to the Trust he holds of your Majesty as painful to those who suffer from it.

His further adding to this by most flagrant Partialities, by formenting Parties and taking measures to keep your Majesty's old and new Subjects

[1] This paper currency was issued by the Intendants under the French Regime, and especially by the last of them, the notorious Bigot. Its redemption by the French Government was at this time the subject of special negotiations.

[2] Pontiac's Rebellion.

[3] For the previous condition of these posts, see Murray's Report of 1762, p. 54.

divided from one another, by encouraging the latter to apply for Judges of their own National Language.

His endeavouring to quash the Indictment against Claude Panet (his Agent in this Attempt who laboured to inflame the Minds of the People against your Majesty's British Subjects) found by a very Worthy Grand Inquest, and causing their other judicious and honest Presentments to be answered from the Bench with a Contemptuous Ridicule.

This discountenancing the Protestant Religion by almost a Total Neglect of Attendance upon the Service of the Church, leaving the Protestants to this Day destitute of a place of Worship appropriated to themselves.

The Burthen of these Grievances from Government is so much the more severely felt, because of the natural Poverty of the Country; the Products of it been extremely unequal to support its Consumption of Imports.

Hence our Trade is miserably confined and distressed, so that we lye under the utmost Necessity of the Aids and Succours of Government, as well from Our Mother Country as that of the Province, in the Place of having to contend against Oppression and Restraint.

We could enumerate many more Sufferings which render the Lives of your Majesty's Subjects, especially your Majesty's loyal British Subjects, in the Province so very unhappy that we must be under the Necessity of removing from it, unless timely prevented by a Removal of the present Governor.

Your Petitioners therefore most humbly pray your Majesty to take the Premises into your gracious Consideration, and to appoint a Governor over us, acquainted with other maxims of Government than Military only; And for the better Security of your Majesty's dutiful and loyal Subjects, in the Possession and Continuance of their Rights and Liberties, we beg leave also most humbly to petition that it may please your Majesty, to order a House of Representatives to be chosen in this as in other your Majesty's Provinces; there being a number more than Sufficient of Loyal and well affected Protestants, exclusive of military Officers, to form a competent and respectable House of Assembly; and your Majesty's new Subjects, if your Majesty shall think fit, may be allowed to elect Protestants without burdening them with such Oaths as in their present mode of thinking they cannot conscientiously take.

We doubt not but the good Effects of these measures will soon appear, by the Province becoming flourishing and your Majesty's People in it happy. And for Your Majesty and your House your Petitioners as in Duty bound shall ever pray, &ca &ca

Sam[l] Sills	John Danser.
Edw[d] Harrison	Ja[s] Jeffry.
Eleaz[r] Levy	Ja[s] Johnston.
Ja[s] Shepherd	Tho[s] Story.

John Watmough. Dan[l] Bayne.
John Ord. John Purss.
Geo. Allsoopp. Alex[r] McKenzie
W[m] Mackenzie. Geo. Measam
B Comte. J[n] A. Gastineau
Peter Faneuil. Ph. Payn.
Geo. Fulton.

PETITION OF THE LONDON MERCHANTS.[1]

To the Kings most excellent Majesty.—

The humble Petition of your Majesty's most dutiful Subjects, the Merchants and others now residing in London Interested in and trading unto the Province of Canada in North America, on behalf of themselves and others trading to and Interested in the said Colonys by way of Supplement to the Petition hereunto annexed Intitled the humble Petition of your Majesty's most faithful and Loyal Subjects British Merchants and Traders in behalf of themselves and their fellow Subjects Inhabiting your Majesty's Province of Quebec

May it please Your Majesty,

We whose names are hereunto subscribed do most humbly certify to your Majesty that Several of us have in our possession a Variety of Original Letters from divers of our Friends and correspondents now residing in Canada and whose names are not subscribed to the Address annexed which confirm the truth of the several Allegations contained in the said Address. We do verily believe the said Allegations to be true and doubt not but in due time shall be enabled to prove the same when your Majesty in your great wisdom shall think proper to direct.

And from the said Original Letters in our possession we do likewise believe that the said Address would have been signed by almost all your Majesty's British as well as French subjects in Canada but for fear of incurring the displeasure and resentment of such of your Majesty's Officers and Servants as may deem themselves reflected upon thereby.

We therefore most humbly join with our fellow Subjects of Canada in their Petition to your Majesty and further most humbly pray.

That the Government of those your Majesty's Dominions may be at least put upon the same footing with the rest of your Majesty's American Colonies or upon any other footing that may be thought Essential for the preservation of the Lives Liberties and Properties of all your Majesty's

[1] Canadian Archives; vol. B 8, p. 10.

most faithfull Subjects as well as for the increase and support of the Infant Commerce to and from that Part of the World.

And Your Petitioners as in duty bound shall ever pray &c. &c. &c.

Capel & Osgood Hanbury,
John Buchanan,
David Barclay & Sons
Anthony Merry.
Lane & Booth
Bissons & Metcalfes,
Jh Masfen,
Crafton & Colson
Walr Jenkins & Co,
Pooley & Fletcher,
Wakefield Willett & Pratt.
John Cartwright,
Mauduit Wright & Co

James Bond,
Mildred & Roberts
Barnards & Harrison,
Nash Eddowes & Petrie,
Webb & Sampson,
Brindleys Wright & Co.
Jno Liotard & Giles Godin,
Gregory Olive
Neate & Pigon,
Richd Neave & Son
John Strettell
Isidore Lynch & Co.

REPORT OF ATTY. AND SOL. GEN. *RE* STATUS OF ROMAN CATHOLIC SUBJECTS.[1]

To the Right Honourable the Lords Commissioners for Trade and Plantations.

May it please your Lordships,

In Obedience to your Lordships Commands Signifyed to me by Mr Pownall's Letter of the 7 Instant, directing us to consider, and Report to your Lordships our Opinion, whether His Majesty's Subjects, being Roman Catholicks, and residing in the Countries, ceded to His Majesty, in America, by the Definitive Treaty of Paris, are, or are not subject, in those Colonies, to the incapacities, disabilities, and Penalties, to which Roman Catholicks in this Kingdom, are subject by the Laws thereof;

We have taken Mr Pownall's Letter into our Consideration, and are humbly of Opinion, that His Majesty's Roman Catholick Subjects residing in the Countries, ceded to His Majesty in America, by the Definitive Treaty of Paris, are not subject, in those Colonies, to the Incapacities, disabilities, and Penalties, to which Roman Catholicks in this Kingdom are subject by the Laws thereof.

All which is humbly submitted to Your Lordships Consideration

FLr NORTON
Wm DE GREY

Lincolns Inn
10th June 1765

Endorsed:—Copy of the Attorney and Sollicitor Generals Report

[1] Canadian Archives, Dartmouth Papers; M 383, p. 69.

SESSIONAL PAPER No. 18

REPORT TO THE LORDS OF THE COMMITTEE FOR PLANTATION AFFAIRS, ON SEVERAL PAPERS RELATIVE TO ORDINANCES & CONSTITUTIONS MADE BY THE GOVERNOR OF QUEBEC.

To the Right Honble the Lords of the Committee of His Majesty's most Honble Privy Council for Plantation Affairs.[1]

My Lords,

His Majesty having been pleased by an Order in His Privy Council to direct this B[d] to consider and report to your Lordship's our Opinion upon several Papers, which were humbly laid before His Majesty, relative to the Ordinances and Constitutions made and established by His Majesty's Governor of the Colony of Quebec in consequence of the Powers vested in Him by His Majesty's Commission and Instructions, We have, in Obedience to His Majesty's Commands taken these Papers into our Consideration, but before we enter into a particular Examination of them, and of the Ordinances and Constitutions to which they refer, it may not be improper for the better understanding thereof, to state to your Lordship's, what was the Mode and Form under which the several Governments in Canada were Administered from the Time of the Conquest to the publication of the present Commission, and also what is in general the form of Government approved of and Established, since it has been erected into one entire Colony by the name of Quebec.

Before the Establishment of the present Constitution, His Majesty's new Subjects in Canada, consisting of upwards of 80,000 Inhabitants, professing the Religion of the Romish Church, were entirely under military Government, the civil Government and Courts of Justice, which existed under the French Dominion were laid aside, & Justice was administered by Courts consisting of military Officers, which His Majesty's Governors had established by their own Authority for the Trial and Decision of all Matters of a civil as well as criminal Nature & which Establishments are stated to have been approved by one of His Majesty's Secretary's of State; but whether these military Courts were governed in their proceedings by the Laws of England, or by the Laws and Customs that subsisted in Canada before the Conquest, or by what other Rules, does not appear from any Papers before us.

By the Form of Government now established the civil Constitution of Quebec, like all other Colonies under His Majesty's immediate Government, and which do not depend upon particular Charters, arises out of, and is regulated by His Majesty's Commission & Instructions to His Governor, by which Commission and Instructions the Governor is authorized to appoint a Council, consisting of the Officers of Government, (who by their Offices are usually Members of the Councils in other Colonies)

[1] Canadian Archives; Q. 56 p. 83; also Q. 18 A p. 131.

together with Eight other of the principal Inhabitants of the Province, which Council is to assist the Govr with their Advice in all matters of State, and is also constituted a distinct branch of Legislature, and impowered jointly with the Governor and an Assembly of Freeholders, which he is directed to summon and call together, so soon as the Circumstances of the Colony will permitt, to frame and enact Laws for the Welfare & good Government of the said Colony, under the like Regulations & Restrictions prescribed in other Colonies; & untill such complete Legislature can be formed, the Governor is authorized, with the Advice & Consent of the Council, to make and pass such temporary Ordinances as shall be necessary & proper for the good Governmt. of the Colony; Provided the said Ordinances are not repugnant, but as near as may be agreeable to the Laws of England, and do not extend to affect the Life, Limb or Property of His Majesty's Subjects, or to the levying any Duties or Taxes (His Majesty's Governor is further impowered by a particular Clause in his Commission to erect, constitute & establish, with the Advice and Consent of the Council, such & so many Courts of Judicature & publick Justice, with all reasonable Powers, Authorities, Fees & Privileges, as he and they shall think necessary for the hearing & determining all Causes as well criminal as civil, according to Law, & Equity, & for awarding Execution thereupon and by an Article in His Instructions he is Directed, in forming these Establishments, to consider, what has been approved and settled in other Colonies; and more particularly in that of Nova Scotia, the situation & Circumstances of which did, at the time of Establishing Courts of Justice therein, bear a near Resemblance to the situation & circumstances of Quebec.

This Power of erecting Courts of Justice, thus lodged in the Governor and Council, has ever been vested in, and exercised by the Governors and Councils of all Colonies upon their first Establishment, and was more particularly necessary & proper in the Case of the Colony of Quebec as the Governor and Council, by being upon the spot, might obtain such Information as would Enable them to judge what Methods of proceeding in such Courts of Justice would be best suited to the Canadian Laws and Customs in respect to their property, to which in good Policy we think a due regard ought to be had in all Cases, where they are not inconsistent with the fundamental Principles of the Laws of England.

Whether this Power, as well as such others as we have stated to have been vested in His Majesty's Governor by His Commission and Instructions, have or have not been properly exercised, depends upon a consideration of those Acts & proceedings, which followed the Promulgation of that Form of Government His Majesty has thought fit to Establish for this Colony; which Acts and Proceedings we beg leave to lay before your Lordships, so far as they have relation to the matters contained in the said Papers referred to us—And in obedience to His Majesty's Command humbly represent Our Opinion to yr. Lordship's thereupon.

SESSIONAL PAPER No. 18

The Establishment, which did of course and necessity immediately follow the Promulgation of the Governor's Commission, was that of a Council, which took place on the 13th of August last, & was composed of those Officers of Government, who are constituted of that Body Ex Officio by the Gov^rs. Instructions, & of eight other Persons, whose names are mentioned in the annexed List transmitted to us by the Governor, to which he has added the Character & Qualifications of each member, expressing to us at the same Time in his Letter, which accompanied this List, the great Difficulties & Inconveniences he laboured under in forming this, as well as every other civil Establishment from the Paucity of British-born Subjects, & from their consisting entirely either of military Persons or Merchants, whom Duty or temporary Interest had led hither, & who could only be considered as Passengers, very few of them having any Property in the Province.

Under this Circumstance represented by the Governor, the Choice which he has made, must be submitted to your Lordship's; & if your Lordship's see no Objection, none occurrs to us to His Majesty's being graciously pleased to establish this Council by His Royal Mandamus to the Governor.

Immediately after the Appointment of the Council, the Governor with their Advice and Consent, issued Commissions of the Peace, a Measure that appears to us to have been necessary, and that the Commissions themselves are proper and constitutional.

As to the Qualification of the several Persons, in whom the Governor has thought fit to vest this Jurisdiction, it would be as irregular, as it is impracticable, to enter into an Examination of them here. We see no Reason to doubt, that the Governor has on this occasion made Choice of such as were best qualified for this Office, nor can we think that, under the Circumstances of the Inhabitants as represented by him, any attention ought to be given to those vague and in many respects ill founded Objections stated in some of the Papers, which we humbly laid before His Majesty, and which appears to us, considering those Circumstances, to be as unjust, as they are uncandid and indecent.

The next important and necessary Object of the Governor's attention was the carrying into Execution those Parts of his Commission and Instructions, by which he is authorized and required to erect and establish so many Courts of Justice and Judicature, as he should think necessary for the hearing and determining all Causes, as well criminal as civil, and for awarding Execution thereupon, and as the Ordinance made and published by the Governor and Council for that purpose does conclude, in the Consideration of it, not only every Question stated in the Papers referred to us by His Majesty, but also almost every important Proposition that regards the immediate welfare of His Majesty's Subjects in that Colony, it will be our Duty to lay before your Lordships the Observations that have occurred to us upon a full mature and impartial Examination of the Ordinance

itself; of the Remarks made upon it and transmitted to us by His Majesty's Governor; and of the Objections to it stated by an Agent appointed for that purpose by His Majesty's principal trading Subjects resident at Quebec.

The Courts of Judicature and the Jurisdictions established by this Ordinance,[1] a copy of which is hereunto annexed are as follows, Viz[t].—

First—A Superior Court of Judicature or Court of King's Bench, in which the Chief Justice appointed by His Majesty is to preside, and to sit and hold Forms at Quebec twice in every Year, with Authority to the said Court to hear and determine all criminal and civil Causes, agreeable to the Laws of England, allowing Appeals to the Governor and Council when the Matter in Contest is above the Value of three hundred Pounds Sterling.

Secondly—A court of Assize and general Gaol Delivery to be held by the Chief Justice once in every Year at the Towns of Montreal and Trois Rivieres.

Thirdly—An inferior Court of Judicature or Court of Common Pleas to be held at Quebec at the same Times when the Superior Courts sits, with Jurisdiction to try and determine all Property above ten Pounds without limitation, with Liberty of Appeal to the Superior Court, when the matter in Contest is of the Value of twenty Pounds and upwards, and to the Governor and Council in cases where the Matter in Contest amounts to three hundred Pounds: all Trials *in this Court* to be by Juries, if required by either Party, and the Judges to determine agreeable to Equity, having regard nevertheless to the Laws of England.

Fourthly—For the Trial of Matters of Property of a small Value in a summary way by Justices of the Peace in the several Districts a Power is given to any one Justice to hear and determine without Appeal all Causes to the Amount of five Pounds; to any two Justices to hear and finally determine without Appeal all Causes to the Amount of ten Pounds, and to three Justices to hear and determine in the Quarter Session all Matters of Property above ten Pounds, and not exceeding thirty Pounds, with Liberty of Appeal to the Superior Court of King's Bench.

Fifthly—For keeping the Peace and executing the Orders of the Justices in respect to the Police, every Parish is to elect once a Year six Persons to serve as Bailiffs, out of which number the Governor is to nominate and appoint the Persons who are to act in that Capacity in each Parish.

The Duty of these Officers is to inspect the High Ways and publick Bridges, and to see they are kept in Repair, to arrest and apprehend Criminals against whom they have Writs or Warrants, to act in the Character of Deputy Coroners, and to decide in a summary way upon all Disputes concerning the breaking or repairing of Fences.

This, may it please Your Lordships is the general Plan and outline of this Establishment.

But before we enter into a particular Examination of these several Judicatures and Jurisdictions separately considered, it may not be improper

[1] Ordinance of Sept. 17. Page 205.

to observe to your Lordships that in the Govrs. remarks upon the sevl. provisions of this ordinance there is a note upon that part of it which Directs the holding Courts of Assize at Montreal in the following words, vizt.

"We find which was not at first apprehended that the Court of Assize "proposed to be held at Montreal twice in every Year, will be attended "with much Expence to the Crown, and therefore that Establishment "shall be cancelled."

This remark we find by the proceedings of the Govt. & Council has been represented, by them to refer to another Ordinance since promulgated directing that all Grand and Petty Jurys to be summoned to serve at any Court of Record, Court of Assize & genl. Gaol Delivery shall be summoned & returned from the body of the Province at large which Ordinance tho' purporting to be a Genl. Regulation was however plainly intended to remove from Montreal to Quebec the trials of those persons charged with the violent assault & wounding Mr. Walker of Montreal and therefore we shall leave it to His Majesty's Judgmt. & decision upon the Circumstances of that case which we have already humbly submitted to His Majesty and shall return to the consideration of the Genl. Ordinance of the 17th of Sept upon which it may not be improper to make a short observation or two.

First. Upon some erroneous general Principles, which seem to have been adopted by those who framed this Ordinance:

Secondly. Upon the very loose and imperfect manner in which it is drawn.

The principal error by which the Framers of this Ordinance seem to have been misled, is, that the native Canadians are under such personal Incapacity, and their Laws and Customs so entirely done away, as that they cannot be admitted either as Suitors or Advocates to participate in common with the rest of His Majesty's Subjects of the Advantages of that System of Justice in respect to Matters of Property, for the Administration of which the Superior Court seems to have been instituted, for though they are admitted to serve indiscriminately as Jurors in this Court, yet it is evident from the express mention of the peculiar Privileges they are to Enjoy in the inferior Court, that it is intended neither that their Customs and Usages in Questions of Property should be allowed of in the Superior Court, nor themselves be admitted to practice therein as Proctors, Advocates or Attornies.

This Distinction and Exclusion seem to us to be as inconsistent with true Policy, as it is unwarrantable upon the Principles of Law and Equity, which do not, we apprehend, when Canadian Property acquired under the French Government is concerned, operate against the Admission in a Court of Justice, of such Laws and Customs of Canada as did heretofore govern in cases relative to such Property: Neither do we conceive what foundation there is for the Doctrine, that a Roman Catholick, provided he be not a Recusant convict is incapable of being admitted to practice in those Courts

as a Proctor, Advocate or Attorney even independent of Y^e. opinion of His Majesty's Attorney and Solicitor General in a late Report made to us, a Copy of which is hereunto annexed, that Roman Catholics &c. in Canada are not subject to any of the Incapacities, Disabilities or Penalties to which Roman Catholics in this Kingdom are subject by the Laws thereof.[1]

As to the manner in which the said Ordinance appears to have been Drawn up, which is the second Question which has Reference to it in the general Consideration, it is our Duty to observe, that it is in many Parts so far from having that Accuracy and Precision that ought to have been particularly attended to in the framing an Ordinance of so great Importance, and upon the Construction of which the Life, Liberty and Property of the Subject depend, that it is very Deficient even in those common Forms and modes of Expression, that are Essential and necessary in Laws of the most trifling signification, and the want of which has frequently been esteemed a sufficient Ground of Repeal.

Whether these obvious Defects in the manner of framing this Ordinance are to be attributed to the Neglect or the Inability of the Officers in the Law Departments of this Colony, we cannot take upon us to say; but from whatever cause it proceeds, it is a Circumstance of very great Importance to the Welfare and Interest of the Colony, & does in our Opinion merit your Lordships Animadversion; for as your Lordships will have seen already from the Powers vested in His Majesty's Governor, to what a great Variety of Difficult and important Objects they apply, it must necessarily occur to your Lordships, that a great deal depends upon the Industry, Vigilance and Ability of those Officers, with whose Concurrence he must Act, and upon whose Advice and Assistance he must in great measure depend, in forming the various Establishments incident to a new Colony.

Having said thus much with regard to the general Principles of this Ordinance & the imperfect manner in which it is framed, we shall proceed to submit to your Lordships as briefly as possible the Observations, which have occurred upon the several Parts of it, as they relate to the particular Judicatures and Jurisdictions thereby established.

The Objections stated to the Constitution & Jurisdiction of the Superior Court or Court of King's Bench, are,

First—That there is no Qualification prescribed for the Jurors.

Secondly—That there is no Provision made in respect to Bail in matters bailable by the Laws of England, or for securing to the Subject the Right he has to a Writ of Habeas Corpus.

Thirdly—That as by this Ordinance all Persons are to serve as Jurors indiscriminately, an entire Jury of Canadians may be impannelled, in Cases where the matter in Question is between a British-born Subject and a Canadian.

As to the first of these Objections, it does not appear, that the Qualification of Jurors (if proper in itself) was necessary to be provided for by

[1] See Report of Norton and De Grey, p. 236.

this Ordinance; but we submit to your Lordships, whether such a Measure, though recommended by the Practice here, as well as in the other Colonies, is not of doubtful Policy in the Colony of Quebec, where so few of the British-born Subjects have any Freehold, and who would consequently by such a Regulation be excluded from serving on Juries.

With respect to the second Objection we cannot but be of Opinion, that the Laws of this Kingdom relative to Bail and Writs of Habeas Corpus, which we conceive have been adopted in all the other British Colonies, ought to be made a part of the fundamental Constitutions of the Colony of Quebec.

The third Objection does also appear to us to be equally well founded, for although we think, that whatever tends to perpetuate a Distinction between British born Subjects and Canadians, (which Juries de Mediatate certainly do) ought to be avoided as much as possible, yet under the present Circumstances of this Province, we are of Opinion, it would have been advisable to have enacted, that in all Cases where the Action lay between a British-born Subject and a Canadian, an equal number of each should have been impannelled upon the Jury, if required by either Party.

The great Objection stated to the Constitution of the Inferior Court of Common Pleas is its having a Jurisdiction in Matters of Property, without any Limitation as to the Amount of the Value of the Actions cognizable in that Court, and it is alleged, that the necessary consequence of this will be, that all Matters of property will be tryed and adjudged in this Department, and thereby the Influence and Authority of the Superior Court in great measure set aside.

In whatever light this Objection is considered, the Weight of it must stand confessed; and when we consider, that no Provision is made for the Appointment and Support of proper Judges in this Court, and that such Judges will therefore be probably men of very little Knowledge and Experience in the Laws, it does appear to us, that such a Constitution and Jurisdiction is highly improper, a fundamental Defect in the Ordinance submitted to your Lordships consideration, and makes it unnecessary for us to trouble your Lordships with the many other Objections, that might otherways be stated to the particular Regulations prescribed for this Court; which, however well intended for administering to the Canadians that Justice in Matters relating to their Property, which it was erroneously supposed they could not be admitted to obtain in the Superior Court, is however, we conceive, unconstitutional, and would be grievous to the Subject.

As to the Jurisdiction in Matters of Property given by the Ordinance to the Justices of Peace, in their several Districts, it does not appear to us in the general Plan and Policy of it to be liable to Objection being conformable to what has been adopted and approved in other Colonies; but we think such Jurisdiction is extended to cases of too great Consequence and Value to be decided by such a Judicature, especially in those Instances where no Appeal is allowed.

These, may it please your Lordships, are the principal and fundamental Errors and Defects in the constitution of the Courts and Jurisdictions established by this Ordinance; and if the Objections shall appear to your Lordships to be well founded, we trust your Lordships will not hestitate to advise His Majesty to signify His Royal disallowance of the Ordinance in Question.

The Consideration, which necessarily follows the Presumption that His Majesty will think it advisable to annul this Ordinance, leads to that Form and Constitution of Judicature, which it may be proper to substitute in the place of it; but before we submit to your Lordships such general Propositions as have occurred to us upon this important Consideration, it is our Duty to request your Lordship's attention to one other Ordinance published by the Governor and Council of Quebec, which in the matter of its Provisions is connected with that for establishing the Courts of Justice, and is referred to in the Papers which are the Ground of this Report.

This Ordinance is intituled "An Ordinance for ratifying and confirming "the Decrees of the several Courts of Justice established in the Districts "of Quebec, Montreal and Trois Rivieres, prior to the Establishment of "civil Government throughout this Province upon the 10th Day of August "1764,"[1] and it enacts, that all the Orders, Judgments or Decrees of the Military Council of Quebec and of all other Courts before the Establishment of civil Government shall stand approved, ratified and confirmed, except in Cases where the Matter in Dispute Exceeded the Sum of £300 Sterling; in which case an Appeal is allowed to the Governour and Council, provided such Appeal be entered within two months, and in cases where the matter in dispute amounts to five hundred pounds, an Appeal may be further prosecuted before His Majesty in Council; WHEREUPON, we beg leave to observe to your Lordships that however necessary or advisable it might have been to make some Regulation of this kind, with a view to preventing litigious and vexatious Suits, yet when we consider the Nature & Constitution of the Courts[2] whose Decrees are thus confirmed and ratified, we can by no means approve of that Confirmation being extended to Decisions of Matters of Property to so large an amount as £300; and we think that the time allowed for Appeals in Matters of Property of a greater Value is much too limitted, especially as there are none of the usual Exceptions with respect to Infants, absentees, Persons non Compos mentis, or under other natural Disabilities; and therefore we must recommend to Your Lordships His Royal Disallowance of this Ordinance.

We shall now beg leave to lay before Your Lordships a general Sketch or outline of such a System of Judicature, as we conceive may be reasonable and proper for the Colony of Quebec, in case His Majesty shall think it advisable to abrogate the Constitution framed by the Governor and Council: and, if Your Lordships shall upon mature consideration approve of this Sketch, as a Ground of a more complete Plan, we conceive such Plan may

[1] Given in "Ordinances, Made for the Province of Quebec, &c., 1767."
[2] See Proclamation of Governor Murray establishing Military Courts, pp. 42 and 44.

be carried into Execution, either by Instruction to His Majesty's Governor to frame an Ordinance agreeable thereto, or by directing His Majesty's Servants in the Law Departments here to prepare the Draught of an Ordinance for that Purpose, to be transmitted to the Governor, and finally ratified and passed by him, agreeable to the Powers contained in his Commission under the Great Seal.

The propositions we offer to Your Lordship's Consideration are as follows, viz[t]

That for the Administration of Justice and Equity under this Constitution, the following Courts should be established, viz[t]

First—A Court of Chancery consisting of the Governor and Council, who should also be a Court of Appeals, conformable to the directions of His Majesty's Instructions, and from whom an Appeal would lye to His Majesty in Council.

Secondly—A Superior Court of Judicature, having all the Powers, Jurisdictions and Authorities of the Court of Kings Bench, Common Pleas, and Court of Exchequer in Westminster Hall, in which Court a Chief Justice, appointed by His Majesty during Pleasure, should preside, and be assisted by three puisne Judges.

That this Court, as well as the Court of Chancery, should sit at the Town of Quebec, and be governed in their sittings and Times of meeting by the Terms observed in Westminster Hall, or if that shall be found inconvenient by such others as shall be best adapted to the Situation and Circumstances of the Colony.

That the Chief Justice and the Assistant Judges shall hold a general Court of Assize, Oyer and Terminer, and general Gaol Delivery 4 Times in the year in the Town of Quebec, and shall also once in the Year, or oftner, if thereunto Authorized by special Commission from the Governor, hold Courts of Assize, nisi prius, Oyer and Terminer, and Gaol Delivery at the Towns of Montreal and Trois Rivieres, in like manner and with the like Authority used and exercised in respect to the Circuit Court and Courts of Nisi Prius, and Assizes in this Kingdom, and that in order to render this Establishment more effectual and complete and to facilitate such other Regulations as may be hereafter expedient in matters of general Government, the Province of Quebec should be divided into three Counties, of which the Towns of Quebec, Montreal and Trois Rivieres to be the Capitals, and that a Sheriff be annually named by the Governor for each County, with the like Authorities and Powers belonging to that office in this Kingdom.

That for the speedy and summary Trial of Matters of Property to a small amount, the Justices of the Peace in the several Parishes and Districts have authority in their general Quarter sessions finally to determine all cases of Property, where the Title to Lands is not in question, above the sum of 40 shillings and not exceeding the sum of ten Pounds and where the value of the Matter in dispute exceeds £5 Sterling to be tried by a Jury if either party requires it.

That two Justices of the Peace have Authority in their petty Session finally to determine in all Cases of Property, where the Title of Lands is not in question, and where the value of the matter in dispute does not exceed 40 shillings.

That in all Courts thus proposed to be established the Canadian Subjects shall be admitted to practice, as Barristers, Advocates, Attornies and Proctors under such Regulations as shall be prescribed by the Court for Persons in general under those descriptions.

That in all cases where any Rights or Claims founded upon any Transactions & Events prior to the Conquest of Canada shall come in question, the several Courts shall admit and be Governed in their proceedings by the French Usages and Customs, which heretofore have prevailed in Canada, in respect to such property.

That to render these Provisions effectual, Care should be taken, that not only the Chief Justice, but also the puisne Judges should understand the French Language; and that one of those Judges at least should be well versed in the French Customs and Usages above mentioned.

As to the peculiar Jurisdiction of such Courts as we have recommended, the nature of their Process and the Rules of their Proceedings, it would ill become us to attempt to suggest either what they should be, or by what Authority established: Whoever His Majesty shall think proper to entrust with the framing those acts or Ordinances, by which these Constitutions, if approved, are to be established, will be the best Judges of what will be necessary and proper in these Respects,[1] and therefore we have Only to add, that we hope that, by such a Form of Constitution and Judicature, the Peace and Happiness of that Colony, which has been unfortunately interrupted, will be restored, His Majesty's natural born Subjects assured of the Enjoyment of their Rights and Privileges to their full Extent, and the minds of the new Canadian Subjects relieved from that anxiety and uneasiness, so strongly yet so Dutifully expressed in their Address to His Majesty[2]; and which Anxiety and uneasiness appears to us to have been entirely excited by the extraordinary Proceedings of the Grand Jury of the District of Quebec, whose conduct in publickly arrainging[3] in an irregular Presentment, the Justice and Policy of Acts of Government passed under His Majesty's Authority, and submitted to His Decision, and the Assuming Powers belonging only to Legislature, does appear to us to have been indecent, unprecedented and unconstitutional.

All of which is most humbly submitted.

DARTMOUTH
SOAME JENYNS
JOHN YORKE
J. DYSON.

Whitehall
Sep[r]. 2[d]. 1765

Indorsed. Quebec.

[1] For the action taken on these recommendations, see Ordinance of July 1st, 1766, p. 249; Ordinance of July 26th, p. 250; and Report of Yorke and De Grey, p. 251.
[2] Page 223.
[3] Page 212.

SESSIONAL PAPER No. 18

Report to the Lords of the Committee for Plantation Affairs, on several papers relative to Ordinances & Constitutions made by the Governor of Quebec.

Sepr. 2d. 1765.

REPRESENTATION OF THE BOARD OF TRADE, TO THE KING'S MOST EXCELLENT MAJESTY.[1]

May it Please Your Majesty,

Our Predecessors in Office having in a Report to the Lords of the Committee of Your Majesty's most Honourable Privy Council of the 30th of May last, submitted to their Lordships consideration, a Plan for the Regulation of Ecclesiastical affairs in Quebec, and we having in a like Report to their Lordships of this Day's Date[2] submitted Our Opinion and Propositions in respect to the Constitutions of Judicature, and other Civil Establishments in that Province, it appears to us that their Lordships have now before them, for their Consideration and decision, all those matters regarding the Constitution and form of Government, both Ecclesiastical and Civil, *which are of the greatest Importance in the present State of that Colony, and upon which the Welfare of Government and the Happiness of Your Majesty's Subjects there depend.

*judicial in B. of T. Canada N° 15.

Two great and important Considerations do yet however remain to be submitted to Your Majesty; Viz[t]

First,—The Propriety of calling a General Assembly, consisting of the Governor, the Council, and a House of Representatives, of which third Estate the situation and Circumstances of the Colony have not hitherto been thought to admit.

Secondly,—The repeated Complaints made by many of Your Majesty's Subjects there, and by the Principal Merchants trading to that Colony here, of Oppression and Misconduct in Your Majesty's Governor.

Upon the first of these Propositions, the only Objection to which, as we conceive, must arise out of the Present State of the Province, the Bulk of the Inhabitants of which being Roman Catholicks cannot, under the Regulations* of your Majesty's Commission, be admitted as Representatives in such an Assembly; We beg leave to represent, that if the whole Province was to be divided into three Districts or Counties, of which the Cities of Quebec and Montreal, and the Town of Trois Rivieres were to be

*Regulation in B. T. 15.

[1] Canadian Archives; B 8, p. 12. The marginal notes refer to variations in the text in other copies of this document in the Public Record Office.

[2] Page 237.

the Capitals, We apprehend there would be found a sufficient number of Persons in each County qualified to serve as Representatives, and in the Choice of whom all the Inhabitants of such County might join; seeing that we know of no Law by which Roman Catholicks, as such, are disqualified from being Electors.

Such a Measure would, we submit give great Satisfaction to your Majesty's New as well as the Natural-Born Subjects; every Object of Civil Government, to which the limited Powers* of the Governor and Council cannot extend, would be fully answered; and above all, that essential and important one, of establishing by an equal Taxation a permanent and Constitutional Revenue, answering to all the exigencies of the State,* upon such an Estimate as your Majesty, shall, with the Advice of your Servants, direct to be laid before them.

*Power in B. T. 15.

*Estate in Haldim copy.

As to what regards the Complaints exhibited against Your Majesty's Governor, they relate to such a Variety of Circumstances and Facts, of which we neither have, nor can have sufficient Information here, and do* refer themselves so much to the General State of Publick Measures there, that we are humbly of Opinion, that it will be most advisable, as well in regard to the Publick Interest, as in Justice to all Parties, that the said Complaints should be transmitted to Your Majesty's Governor, with Directions to return to this Kingdom, in order to give Your Majesty an Account of the State of the Colony;[1] and that in the mean time a proper person should be authorized to administer Government there, under the Character and with the appointment of Lieutenant Governor

*to in Haldimand copy.

Which is most humbly submitted.

DARTMOUTH JOHN YORKE

Signed

SOAME JENYNS J. DYSON

Whitehall 2nd Septr 1765.

[1] On Oct. 24th, 1765, General H. S. Conway, who had succeeded the Earl of Halifax a-Secretary of State for the Southern Department, July 12th, 1765, wrote to Murray that, in consequence of representations of disorders in the colony, he was to prepare to return to give an account of the Province. On April 1st of the following year he was formally recalled. He departed from Canada on the 28th of June, 1766, leaving Col. P. Aemilius Irving, President of the Council, as acting Governor until the arrival of Col. Guy Carleton. See Canadian Archives, Q 2, p. 464, and Q 3, pp. 14 & 173.

SESSIONAL PAPER No. 18

An ORDINANCE, *To alter and amend an Ordinance of His Excellency the Governor and His Majesty's Council of this Province, passed the Seventeenth Day of* September 1764.[1]

Whereas by an Ordinance of His Excellency the Governor and His Majesty's Council of this Province, made and passed the Seventeenth Day of September, 1764, Intitled, *An Ordinance for regulating and establishing the Courts of Judicature in this Province;* His Majesty's has most graciously been pleased to signify His Royal Will and Pleasure therein, by an additional Instruction[2] to His said Excellency the Governor, "That the Welfare and "Happiness of His loving Subjects in this Province, which will ever be Ob- "jects of His Royal Care and Attention, do require that the said Ordinance "should be altered and amended in several Provisions of it, which tend to "restrain His Canadian Subjects in those Privileges they are intituled to "enjoy in common with his natural born Subjects:" And therefore it is His further Royal Will and Pleasure, That it should be declared, And by His Honour the President of His Majesty's Council, by and with the Advice, Consent and Assistance of His Majesty's Council of this Province, and by the Authority of the same, *It is hereby Ordained and Declared*, That all His Majesty's Subjects in the said Province of *Quebec*, without distinction, are intituled to be impannelled, and to sit and act as Jurors, in all Causes civil and criminal cognizable by any of the Courts or Judicatures within the said Province.

And for the more equal and impartial Distribution of Justice, *Be it further Ordained and Declared, by the Authority aforesaid*, That in all civil Causes or Actions between British born Subjects and British born Subjects, the Juries in such Causes or Actions are to be composed of British born Subjects only: And that in all Causes or Actions between Canadians and Canadians, the Juries are to be composed of Canadians only; and that in all Causes or Actions between British born Subjects and Canadians, the Juries are to be composed of an equal Number of each, if it be required by either of the Parties in any of the abovementioned Instances.

And be it further Ordained and Declared, by the Authority aforesaid, That His Majesty's Canadian Subjects shall and are hereby permitted and allowed to practice as Barristers, Advocates, Attornies, and Proctors, in all or any

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[1] "Ordinances, made for the Province of Quebec, by the Governor and Council of the said Province, &c." Quebec, 1767. p. 72. Given also in Canadian Archives, Q 62 A 2, p. 515.

[2] The additional instruction here referred to runs as follows:—"Additional Instructions to Our trusty and well beloved the Honorable James Murray Esquire, Our Captain General & Governor in Chief in and over Our Province of Quebec and the Territories depending thereon in America. Given at Our Court at St. James's the Day of

"We having taken into Our Royal Consideration the Ordinance enacted & published by you, on the 17th day of Sepr 1764 for Establishing Courts of Judicature in Our Province of Quebec; & it appearing to Us that the Welfare and Happiness of Our loving Subjects there, which will ever be Objects of our Care & Attention, do require, that the said Ordinance should be altered & amended in several Provisions of it, which tend to restrain Our Canadian Subjects in those Privileges they are entitled to enjoy in common with our Natural born Subjects; It is therefore Our Royal Will & Pleasure, & you are hereby directed & required, forthwith upon the Receipt of this our Instruction, to Enact and Publish an Ordinance, declaring that all Our Subjects in our said Province of Quebec, without Distinction, &c." The remainder is given in the ordinance. This instruction was approved in Council, 17th Feb., 1866. See Canadian Archives, Dartmouth Papers, M. 383, p. 152.

of the Courts within the said Province, under such Regulations as shall be prescribed by the said Courts respectively for Persons in general under those Descriptions.

And be it further Ordained and Declared, by the Authority aforesaid, That this Ordinance shall continue in Force until His Majesty's Pleasure be further known herein; and that so much of the said Ordinance of the said Seventeenth of *September*, 1764, as is not hereby altered and changed, shall and is hereby declared to be temporary only.

GIVEN by the Honourable PAULUS ÆMILIUS IRVING, *Esq; President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* QUEBEC, *this* 1*st Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P : ÆMIs. IRVING.

By Order of the Commander in Chief of the Province,
JA. POTTS, D.C.C.

An *ORDINANCE, In Addition to an Ordinance of His* EXCELLENCY *the Governor and Council of this Province, of the Seventeenth of* September, *1764, intituled, "An Ordinance for regulating and establishing the Courts of "Judicature in this Province."*[1]

WHEREAS it has been often complained of, That there being no more than two Terms in the Year, appointed for holding His Majesty's Supreme-Court of Judicature, and Courts of Common-Pleas within this Province, is a Delay in obtaining Justice, and a great Prejudice to publick Credit; for Remedy whereof, *Be it Ordained and Declared, by His Honour the President and Commander in Chief of this Province, by and with the Advice, Consent and Assistance of His Majesty's Council, and by Authority of the same, It is hereby Ordained and Declared*, That a new Term is by Virtue of this Ordinance established and added to the two former Terms, called Hillary and Trinity Terms, which said new Term shall be called Michaelmas Term, and shall commence and be held yearly, for the Dispatch of publick Business in the said Supreme Courts and Courts of Common-Pleas respectively, on every Fifteenth Day of *October*, with the same Number of Return Days therein as is practised in the said two other Terms, called Hillary and Trinity Terms, with the same Liberty of appealing from the Judgments therein to be given, and all other Rights and Privileges as is and are established by an Ordinance of His Excellency the Governor and Council of this Province, of the Seventeenth of *September*, 1764, Intituled, "An Ordinance for regulating and establishing the Courts of Judicature in this Province," or by any other Ordinance in Addition to or in Amendment or Explanation thereof: And all Writs and Process whatsoever hereafter to be lawfully and regularly

[1] "Ordinances, made for the Province of Quebec, &c." 1767. p. 79. Given also in Canadian Archives, Q. 62 A pt. 2, p. 518.

sued out of any of the said Courts, and made returnable the first or any other Return-Day of the said Term, called Michaelmas, by this Ordinance established, are hereby declared to be good and valid.

GIVEN by the Honourable PAULUS ÆMILIUS IRVING, *Esq; President of His Majesty's Council, Commander in Chief of this Province, and Lieutenant-Colonel of His Majesty's Army, at the Castle of* Saint Lewis, *in the City of* QUEBEC, *this 26th Day of* July, *in the Sixth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Sixty-six.*

P : ÆMIs. IRVING.

By Order of the Commander in Chief of the Province,
JA. POTTS, D.C.C.

REPORT OF ATTORNEY AND SOLICITOR GENERAL REGARDING THE CIVIL GOVERNMENT OF QUEBEC.[1]

To The Right hoñble the Lords of the
Committee of Council for Plantation affairs.

MY LORDS,—In humble obedience to your Order of the 19th of Novemr last wherein it is recited, that his Majesty having been pleased, to refer to your Lordships several memorials and Petitions from His Majesty's Subjects in Canada as well British as French, complaining of several of the Ordinances and proceedings of the Governor and Council of Quebec, and of the present Establishment of Courts of Judicature, and other Civil Constitutions; Your Lordships had on that Day, taken the said paper into your Consideration, together with a Report[2] made thereupon by the Lords Commrs for Trade and plantations dated the 2d Septr last and finding that the said Lords Commrs had proposed another System of Judicature to be substituted in lieu of that which is now subsisting You thought it proper to Order, That the said Memorials Petitions, and Reports (which were thereunto annexd) should be referr'd to Us, to consider and Report Our Opinion, and observations thereon, together with such alterations to be made in what is proposed in the said Report of the Lords Commrs for Trade and plantations, and such other regulations & propositions, as we should think fitt to suggest for the forming a proper plan of Civil Government for the said province of Quebeck; and to that end we were directed to take into our Consideration such parts of the annex't report of Governor Murray,[3] upon the state of the said province as relate to the Civil Government thereof whilst the same was Annex'd to the Crown of France, And were also required to send for Lewis Cramahé[4] Esqr Secretary to Governor Murray and Fowler Walker Esqr Agent for the said Province of Quebec, who were Order'd to attend us from time to time, to give us such further Lights and information as might be requisite for the purpose aforementioned.

[1] Canadian Archives, Dartmouth Papers, M 383, p. 170.
[2] See p. 237.
[3] See p. 51.
[4] See note 2, p. 231.

We have perused the several papers referr'd to us, together with the said two Reports and have also been attended by the Gentlemen named in your Order; and upon the whole matter, beg leave humbly to submit to your Lordships such Reflections as have occurred to us in the Course of that imperfect consideration, which we have been Able at this Busy Season of the year to give to the Great subject of the *Civil Government* of Quebec and the propositions made by the Lords Commrs of *Trade and plantations*.

My Lords, it is evident that Two very principal sources of the Disorders in the province have been. 1st The attempt to carry on the Administration of Justice without the aid of the natives, not merely in new forms, but totally in an unknown tongue, by which means the partys Understood Nothing of what was pleaded or determined having neither Canadian Advocates or Sollicitors to Conduct their Causes, nor Canadian jurors to give Verdicts, even in Causes between Canadians only, Nor Judges Conversant in the French Language to declare the Law, and to pronounce Judgement; This must cause the Real Mischiefs of Ignorance, oppression and Corruption, or else what is almost equal in Government to the mischiefs themselves, the suspicion and Imputation of them.

The second and great source of disorders was the Alarm taken at the Construction put upon his Majesty's Proclamation of Oct. 7th 1763. As if it were his Royal Intentions by his Judges and Officers in that Country, at once to abolish all the usages and Customs of Canada, with the rough hand of a Conqueror rather than with the true Spirit of a Lawful Sovereign, and not so much to extend the protection and Benefit of his English Laws to His new subjects, by securing their Lives, Libertys and propertys with more certainty than in former times, as to impose new, unnecessary and arbitrary Rules, especially in the Titles to Land, and in the modes of Descent Alienation and Settlement, which tend to confound and subvert rights, instead of supporting them.

1st To the *first* of these Evils the Order made by your Lordships on the 15th of Novr last founded on the Report of the Lords Commrs of Trades and plantations, requiring the Govr & Commander in Chief of the province (by an additional Instruction) to Publish an Ordinance for admitting Canadian Jurors, in the several Cases therein express'd, and for permitting Canadian Advocates, Attorneys, and Proctors, under proper regulations, provides an adequate Remedy.[1]

2d To the *Second* Evil the Lords Commrs of Trade and plantations by their Report, have apply'd themselves with great Care, ability and Judgement, to suggest Remedys, by pointing out the defects in the late Ordinance of Septr 1764 and reforming the Constitution of Justice; We concur with their Lordsps in the objections made to the Ordinance; And upon the several articles of the *Plan* laid Down in that report, the following observations Occur to Us, both for the Confirmation and Improvement of them.

[1] See Ordinance of July 1st., 1766; p. 249.

SESSIONAL PAPER No. 18

1st The *first* Article proposes a Court of Chancery consisting of the Govr and Council, who shall also be a Court of Appeals, from whom an appeal will lie to the King in Council; By this Article the Lords of Trade very rightly mean to Invest the Govr and Council with Two different Jurisdictions; The *One* as a Court of Equity, to give relief originally in that Capacity the other as a Court of Errors, to review in the second Instance the Judgements of the Court of Common Law, mentioned in the next Article.

2d The *Second* Article proposes a *Superior Court* of Ordinary Jurisdiction, uniting all the proper powers in Criminal and Civil Cases and matters of Revenue, in this Court, it is recommended that a Chief Justice should preside, Assisted by three puisne Judges; These are required to be conversant in the French Language, and that one of them particularly should be knowing in the French usages.

This proposition appears to us well conceive'd; and we submit to your Lordships, whether it may not be adviseable, that they should be instructed to confer sometimes with the Canadian Lawyers most respected for Learning, Integrity and Conduct, who may prove of the greatest assistance to English Judges. Competent Salarys for the Encouragement of Able and Worthy men seem absolutely necessary in this Establishment, with a due distinction between the Chief Justice and his Brethren. The new Judge of Vice Admiralty for America has appointments of £800 per Annum.

3d The *Third* Article relates to *Terms* for the sitting of the Superior Court at Quebec, either according to the Terms appointed at Westminster, or as may be more convenient. This matter must be accommodated to the Seasons, Climate and convenience of the people in their Tillage and other General employments, therefore it seems proper to be left to the future Judgement of the Govr Chief Justice, and Principal servants of the Crown, entrusted with the Government of the province and ought to be fix'd by *Ordinance.*

4th The *Fourth* Article proposes *four Sessions* of Assize, Oyer and Terminer, and Goal Delivery at *Quebec*, with like special Commissions, once or oftener in the year at *Trois Rivieres* and *Montréal.* We submit to your Lordships, that it may be unnecessary to lay down any particular Rules for holding *four* Sessions in the manner mentioned at *Quebec;* because all Civil and Criminal Causes arising in that District may be tried at Bar in Term time, or (as the legal Expression is) in *Bank* By Order of the Judges, or under the General powers of the supreme Court, As to the *Circuit Courts* to be held *once*, or perhaps *twice* in the year (which seems better) at *Trois Rivieres* and *Montreal*, We think, that it may be proper to require that the Judges shall continue in each of those places, at the least, for a Certain Number of Days to give time and opportunity for the resort of partys and the convenient Dispatch of Business, in like manner as was done by Henry the 8th in establishing the Courts of Great Sessions for Wales, and by the Parliament in his late Majts Reign, when the Circuit Courts were settled for Scotland.

5th The Fifth Article recommends the Distribution of the province into three Countys or Districts, of which, *Quebec*, *Montreal* and *Trois Rivieres* shall be the three Capital Towns, and that an Annual sheriff shall be named for each.

We are humbly of opinion that this Distribution of the province is more natural and convenient than the plan lately followed by the Governor and Council, and it will be more agreeable to the People, as it is conformable to their Antient Division of the Country. But considering the difficulty of procuring English and protestant sheriffs, especially at *Trois Rivieres* (where at present only Two persons who are half pay Officers reside thus qualified) it may deserve consideration whether such Sheriff should not serve longer than one year, till such time as the gradual increase of Inhabitants may facilitate an Annual Rotation; or whether the Annual Sheriff of *Quebec* may not also serve that office for *Trois Rivieres* This will oblige him, to appoint two Deputys or under Sheriffs, that is one for each District, And if this method be taken, the Sheriff may be made an Annual Officer, because *Quebec* can afford sufficient number of proper persons to supply the Rotation, and *Montreal*. (it is agreed) Can do the like.

6th The *Sixth* Article proposes to give the Justices of Peace in the three several Districts, at their General Quarter Sessions, Power to determine finally all causes not exceeding the value of *Ten pounds* (the Title to Lands not being in Question) with a Jury where it exceeds *Five pounds* and without one where it falls under that sum, it gives also to Two Justices in Petty Sessions, similar Authority in similar cases, where the value of the matter in dispute is not more than Forty Shillings. The latter Authority appears to us well proposed; but we submit, whether it may not be better to reserve the Jurisdiction in matters exceeding that value as far as *Ten* pounds to be determined in *Quebec*, By proceeding in nature of the Civil Bill in Ireland before the Judges of the superior Court, or by proceeding in Nature of the summary Bench; Actions at Barbadoes, and in like manner in the Circuit Courts at *Trois Rivieres* and *Montreal* twice in the year; The value of *Ten* pounds is considerable in such a Colony and the reputation of the Justices of Peace is, as yet scarce enough establish'd for such a Jurisdiction; Under this *Article* We beg leave to suggest that in the Commission of the Peace for each District it may be useful and popular and endear his Majesty's Government to his new Subjects; if *one* or *Two* Canadians should be appointed Justices, with the others who are British, particularly if Protestants can be found fit for that Office.

7th The seventh and last point mentioned in the Report of the Lords of Trade, on which we shall observe, is that *Article* wherein they propose, that in all Cases where *Rights* and *Claims* are founded on events prior to the Conquest of *Canada* the several Courts shall be Govern'd in their proceedings, by the French usages and Customs which have heretofore prevailed in respect to such property.

This proposition is undoubtedly right, as far as it goes, in respect of Cases which happen'd, antecedent to the Conquest; but we beg leave to take Occasion from hence, to enlarge a little on this subject of the Rule of Judgement to be observed in the Courts of *Quebec* as it is of the greatest moment to the honor and Justice of the Crown, and to the Peace and prosperity of the Province.

There is not a *Maxim* of the *Common Law* more certain than that a Conquer'd people retain their antient Customs till the Conqueror shall declare New Laws. To change at once the Laws and manners of a settled Country must be attended with hardship and Violence; and therefore wise Conquerors having provided for the security of their Dominion, proceed gently and indulge their Conquer'd subjects in all local Customs which are in their own nature indifferent, and which have been received as rules of property or have obtained the force of Laws, It is the more material that this policy be persued in *Canada*; because it is a great and antient Colony long settled and much Cultivated, by French Subjects, who now inhabit it to the number of Eighty or one hundred thousand. Therefore we are humbly of opinion, that the Judges to be employed by his Majesty in this province will answer all the ends of their trust, both as to the King and to the people, if their conduct in Judicature be modell'd by the following *General* Rules.

1st *First* in all *personal* actions grounded upon Debts, promises, Contracts and Agreements, whether of a Mercantile or other nature, and upon *wrongs* proper to be compensated in damages, to reflect that the substantial *maxims* of Law and Justice are every where the same. The modes of proceeding and Trial, and perhaps in some degree also the strict Rules of Evidence may vary, but the Judges in the province of *Quebec* cannot materially err, either against the Laws of England, or the antient Customs of Canada; if in such Cases they look to those substantial maxims.

2d *Secondly* in all suits or Actions relating to Titles of Land, the Descent, Alienation, Settlements and incumberances of *Real* property, We are humbly of opinion, that it would be oppressive to disturb without much and wise deliberation and the Aid of Laws hereafter to be enacted in the province the local Customs and Usages now prevailing there; to introduce at one Stroke the English Law of Real Estates, with English modes of Conveyancing Rules of Descent and Construction of Deeds, must occasion infinite confusion and Injustice. British Subjects who purchase Lands there, may and ought to conform to the fix'd *local* Rules of Property in Canada, as they do in particular parts of the Realm. or in the other Dominions of the Crown. The English Judges sent from hence may soon instruct themselves by the assistance of Canadian Lawyers and intelligent Persons in such Rules, and may Judge by the *Customs* of Canada, as your Lordships do in Causes from Jersey by the Custom of Normandy; It seems reasonable also, that the rules for the Distribution

of personal property in Cases of Intestacy and the modes of assigning and Conveying. It should be adhered too for the present.

3d *Thirdly* in all suits entertained before the Govr and Council, as a Court of Chancery or Equity, it is obvious, that the General Rules of Law and Justice must be the same as in the other Courts, according to the subject matter of the suit with this difference only, that the relief is more compleat and specific and adapted to supply the Defects, or allay the Rigor of those Rules.

4th *Fourthly* in Criminal Cases, whether they be *Capital* Offences or *misdemeanors*, it is highly fitting (as far as may be) that the Laws of England be adapted in the Discription and Quality of the offence itself, in the manner proceeding to charge the party to Bail or detain him. The Certainty, the Lenity of the English Administration of Justice and the Benefits of this Constitution will be more peculiarly and essentially felt by his Majesty's Canadian Subjects, in matters of Crown Law, which touch the Life, Liberty and Property of the Subject, than in the conformity of his Courts to the English Rules of *Real* and Personal Estates.

This Certainty and this Lenity are the *Benefits* intended by his Majesty's Royal proclamation, so far as concerns Judicature. *These* are *Irrevocably* Granted and ought to be secured to his Canadian subjects, according to his Royal Word. For this purpose it may not be improper upon the appointment of a new Govr with a *new Commission* revised and Consider'd by your Lordships, to direct that Governor to publish an explanatory proclamation in the Province, to quiet the minds of the People as to the true meaning of the Royal proclamation of Octr 1763 in Respect to their local Customs and usages, more especially in Titles of Land and Cases of Real property.

5th *Fifthly* in Rules of *process* and the *Practice* of the *Courts*. We beg leave to suggest, that it may be expedient to order the new Chief Justice,[1] with the assistance of the other Judges, to be appointed and the Attorney General[2] of Quebec to consider, and prepare a suitable *Plan* adapted to the Jurisdiction of the different Courts, and the convenience of the Suitors. The Forms of proceeding out to be simple easy and as summary and expeditious as may consist with the advancement of right and the protection of Innocence. useful hints may be taken not only from the supreme Courts of Westminster, but from the practice of the Courts

[1] On Feb. 5th. 1766. an official notice from the Secretary of State was sent to Chief Justice Gregory, stating that in consequence of his conduct His Majesty had no further occasion for his services and that Mr. Wm. Hey was appointed to succeed him. On the 17th of the same month, an official notice was sent to the Governor of Quebec that Hey had been appointed to succeed Gregory as Chief Justice, and directing that he should be invested with the office. See Q 3, pp. 1 & 2. For Hey's Commission as Chief Justice, see p. 273.

[2] On March 6th. official notice from the Secretary of State was sent to Geo. Suckling that there being no further occasion for his services as Attorney General, Mr. Francis Maseres is appointed to succeed him. On March 18th official notice was also sent to the Governor of Quebec, of the appointment of Maseres in the place of Suckling. See Q 3, pp. 3 & 4.

Of Gregory and Suckling Murray reported, that "our chief Judge and Attorney General are both entirely ignorant of the Language of the Natives, are needy in their Circumstances and tho' perhaps good Lawyers and Men of integrity, are ignorant of the World, consequently readier to Puzzle and create Difficultys then remove them." Q 2, p. 378.

in Wales, and from many of the Colonys. Some time will be necessary, before such a plan can be framed and experience alone can perfect it. As soon as they shall have prepared it, the Governor and Council may *enact* it by an *Ordinance* and transmit the same in the accustomed manner, to be laid before his Majesty for his Royal approbation.

All which is humbly submitted &c[a]

C. YORKE
W[m] DE GREY

April 14[th] 1766

Endorsed:—Report of the Attorney and Sollicitor General, relative to the Civil Government of the province of Quebec. 13[th] May 1766.

Read at the Committee and the Board of Trade Order'd to prepare a draught of an additional Instruction thereupon &c.

N° 9

CONSIDERATIONS ON THE EXPEDIENCY OF PROCURING AN ACT OF PARLIAMENT FOR THE SETTLEMENT OF THE PROVINCE OF QUEBEC (BY BARON MASERES) LONDON PRINTED IN THE YEAR MDCCLXVI.[1]

The Difficulties that have arisen in the government of the province of Quebec, and which are likely still to occur in it, notwithstanding the best intentions of those who are intrusted by His Majesty with the administration of affairs there, are so many and so great that the Officers, whom His Majesty has been pleased of late to nominate to the principal departments in that government, cannot look upon them without the greatest uneasiness and apprehension, and despair of being able to overcome them without the assistance of an act of Parliament to ground and justify their proceedings. Two nations are to be kept in peace and harmony, and moulded, as it were, into one, that are at present of opposite religions, ignorant of each others language, and inclined in their affections to different systems of laws. The bulk of the inhabitants are hitherto either French from old France, or native Canadians, that speak only the French language, being, as it is thought, about ninety thousand souls, or as the French represent it in their Memorial, ten thousand heads of families. The rest of the inhabitants are natives of

[1] Francis Maseres was appointed Attorney General of the Province of Quebec early in March 1766, though his Commission, as issued at Quebec under the authority of Governor Carleton, is dated Sept. 25th, 1766. These "Considerations" were written by Maseres before he went to Quebec, and are of interest not only for the points with which they deal, but in comparison with other important papers afterwards published by him and relating to the question of the government and laws of the Province of Quebec. Representative examples of his later proposals and discussions are included in this volume.

Great Britain or Ireland, or of the British dominions in North-America, and are at present only about six hundred souls; but, if the province is governed in such a manner as to give satisfaction to the inhabitants, will probably every day increase in number by the accession of new settlers for the sake of trade and planting, so that in time they may equal or exceed the number of the French. The French are almost uniformly Roman Catholics: there were only three protestant families among them at the time of the conquest of the province; and probably that number is not much increased among them, as no endeavours have been used for their conversion. But, what is more to be lamented, is that they are violently bigotted to the Popish religion, and look upon all Protestants with an eye of detestation. This unhappy circumstance has been, and is still likely to be, a ground of enmity and disunion between the old and new inhabitants. The French insist, not only upon a toleration of the public worship, but on a share in the administration of Justice, as jury-men and justices of the peace, and the like, and on a right, in common with the English, of being appointed to all the offices of the government. The English, on the contrary, affirm, that the laws of England made against the Papists ought to be in force there, and consequently that the native Canadians, unless they think proper to turn Protestants, ought to be excluded from all those offices and various branches of power, and in some degree they seem to be supported in this opinion by a part of the governor's commission; I mean that part which enables him to call and constitute a general assembly of the free-holders and planters of the province: for it is there expressly provided, that no person elected to serve in such an assembly, shall sit and vote there till he has subscribed the declaration against Popery prescribed by the statute 25. Car. 2 which would effectually exclude all the Canadians.

Toleration of the Roman Catholic Religion.

The grounds upon which the French demand a toleration of the Catholic religion, are partly the reasonableness of the thing itself, they being almost universally of that religion, and partly the stipulation made on that behalf in the fourth article of the definitive treaty of peace, and which is expressed in these words: "His Britannic Majesty on his side agrees to grant the liberty "of the Catholic religion to the inhabitants of Canada; he will "consequently give the most effectual orders that his new "Roman Catholic subjects may profess the worship of their "religion, according to the rites of the Romish church, as far "as the laws of Great Britain permit."

These last words, "as far as the laws of Great Britain permit," render the whole stipulation in favour of this toleration

very doubtful; for it may reasonably be contended, that the laws of England do not at all permit the exercise of the Catholic religion.

For in the first place, these words seem to refer to some degree of toleration of the Catholic religion, already actually subsisting in some part of the British dominions, and by virtue of the laws of Great Britain; and if so, they convey no right to any toleration at all, because no degree of toleration is already actually allowed by the laws of Great Britain in any part of the British dominions.

2^{dly}, Supposing these words not to refer to any toleration of the Catholic religion now actually subsisting by virtue of the laws of Great Britain, but to mean only such a degree of toleration as (though it does not actually subsist in any of the British dominions by virtue of the laws of Great Britain, yet) may subsist without a breach of the laws of Great Britain, yet still there will be great reason to think that the laws of Great Britain do not permit this toleration in any degree. For in the first place, the stat. of 1 Eliz. cap. i. for restoring the supremacy in ecclesiastical matters to the Crown, expressly extends to all the Queen's future dominions, as well as to those belonging to the Crown at the time of making the act. The words of the 16th section are as follows: "Be it enacted, &^{c}., that no foreign "prince, person, prelate, &^{c} spiritual or temporal, shall at any "time hereafter use or exercise any manner of power or jurisdic- "tion, spiritual or ecclesiastical, within this realm, or within "any other your Majesty's dominions, or countries, that now "be, or *hereafter shall be*, but shall be clearly abolished out of "this realm, and all other your highness's dominions for ever." And in the next section, all this ecclesiastical jurisdiction or supremacy, is united and annexed for ever to the Crown. It is clear therefore that the King is, by the laws of Great Britain, supreme head of the church in the province of Quebec, as well as in England itself. Now it is the very essence of Popery, that the Pope, and not the King, is supreme in all spiritual matters. Consequently this essential article of Popery cannot, by virtue of the stipulation in the definitive treaty, be tolerated; but all appeals to the Pope, all exercises of ecclesiastical authority in Quebec, by the Pope, or his legates, or any other person commissioned by him, all nominations to benefices, or to the bishoprick of the province, (which is a power the Pope has hitherto exercised, at least so far as to approve the bishop before he entered upon the functions of his office) must now be illegal and void.

But this act goes a great deal further; for it requires all ecclesiastical persons whatsoever, and likewise all lay-persons

holding temporal offices, or employed in the service of the Crown, and likewise all persons holding lands of the Crown, and doing homage for them, to take the oath of supremacy to the Queen, or her successors, under pain of losing their benefices, or temporal offices, &c and this not only in the realm of England, but in any of the Queen's highness's dominions. So that by this part of the act, all the Canadian clergy, and a great part of the laity, might be required to take the oath of supremacy, which it is well known the most moderate Catholics cannot take, it being contrary to the fundamental article of their religion; for the difference between the moderate Catholics and the more furious and zealous Papists, who are mostly guided by the Jesuits, consists principally in this circumstance, that the latter ascribe to the Pope an unlimited power in temporal as well as spiritual matters, and affirm that he may depose kings, and absolve subjects from their allegiance, and do other the like extravagant mischiefs; whereas the former deny his temporal, and acknowledge only his spiritual supremacy.

It is true indeed, this oath of supremacy is taken away by the stat. 1 Will. cap. 8. But another shorter oath of supremacy, (containing a mere denial of the Spiritual, or Ecclesiastical power of the Pope, or any other foreign Prince, and which is therefore*) equally contrary to the sentiments of all Roman-Catholics, is appointed to be taken in its stead, and by the same persons, and under the same penalties, as before.

It appears therefore, from the statute 1. Eliz. cap. i. alone, without considering any other of the laws against Popery, that the exercise of the Popish religion cannot be tolerated in the province of Quebec, consistently with the laws of England; and consequently that it cannot be tolerated there at all by virtue of the stipulation of the definitive treaty above-mentioned, because that stipulation has an express reference to the laws of England.

Further by the next act in the statute-book, or stat. 1 Eliz. cap. ii. for the uniformity of common-prayer and service, it is enacted, "That every minister of a parish-church, &c within "this realm of England, Wales, and marches of the same, or "*other the Queen's dominions*, shall be bound to use the book of "common-prayer, and shall use no other service, under pain of "incurring certain heavy penalties."

By this act, the mass is prohibited in all parish-churches in all her Majesty's dominions.

*The words in parenthesis do not appear in the manuscript copy in the Canadian Archives Q 56 1, pp. 124-151, but are given in a printed version published in 1809.

This act does not indeed say expressly, as the former does, that it shall extend to all her Majesty's dominions that hereafter shall be, as well as those that at present are, belonging to the Crown of England. But there is reason to believe it meant so; or at least there is room for doubt. And if it does mean so, the mass is prohibited by it in the province of Quebec.

Upon these reasons we may conclude, that the exercise of the Catholic religion cannot, consistently with the laws of Great Britain, be tolerated in the province of Quebec.

Yet that it should be tolerated is surely very reasonable, and to be wished by all lovers of peace and justice and liberty of conscience.

By what authority then shall it be tolerated? this is the only question that remains. Shall the King alone undertake to tolerate it? will it be adviseable that he should exercise, though for so good an end, a power of dispensing with the laws? will it not give room to a thousand censures and odious reflections and comparisons? The authority of Parliament seems to be a much safer foundation to establish this measure upon, in a manner which neither the new English inhabitants of the province can Contest, nor the French Catholics suspect to be inadequate.

Settlement of the Laws.

The next great difficulty that occurs, is the settlement of the laws, by which the province of Quebec is for the future to be governed. The law upon this subject seems to be this; 1st, That the laws of the conquered continue in force till the will of the conqueror is declared to the contrary; this follows from the necessity of the case, since otherwise the conquered provinces would be governed by no laws at all. 2dly, That after the declaration of the will of the conqueror, the conquered are to be governed by such laws as the conqueror shall think fit to impose, whether those are the old laws by which they have been governed before, or the laws by which the conquerors are governed themselves, or partly one, and partly the other, or a new set of laws different from both. 3dly, That by the conqueror is to be understood the conquering nation, that is, in the present case, the British nation; that consequently by the will of the conqueror is to be understood the will of the British nation, which in all matters relating to legislation is Expressed by the King and Parliament, as in all matters relating to the executive power it is expressed by the King alone; that therefore the Parliament only have a power to make laws for the province of Quebec, or to introduce any part of the laws of Great Britain there, or to delegate such a power of making or introducing laws to any other hands, notwithstanding it may happen that in fact such a power may inadvertently have been

delegated to the governor and council of the province by a private instruction of the King alone. For if the contrary doctrine were true, that the King alone had the whole legislative power in the province of Quebec, it would follow, that not only all the conquered Canadians, but all the new English settlers there, would become slaves or subjects to an absolute and arbitrary government, the moment they set their foot there. The King might introduce the severest laws, and most cruel punishments, the inquisition, the rack, and the wheel, and might make all his subjects there, both old and new, tenants at will of their lands and other property, and tax them in any degree whensoever he thought fit. He might keep a standing army there, without consent of Parliament, and raise money to pay them by his own authority, and with such an army, a prince of James II's. disposition, might oppress the liberties of the other adjoining colonies, or even of Great Britain itself. These are dreadful consequences, but follow clearly from such a doctrine; for which reason the doctrine itself ought not to be maintained. The other opinion, that the conquered people, when once ceded to the Crown of Great Britain, are thereby admitted to be British Subjects, and immediately intitled to participate of the liberties of other British Subjects, and are therefore to be governed according to the rules of the limited monarchy of Great Britain, by which the executive power is vested solely in the King, but the power of making laws and raising taxes in the King and Parliament, is a much safer and more reasonable opinion.

It is therefore to be wished, that an Act of Parliament might be obtained that at once declared what laws should take place in the province of Quebec, whether the laws of the conquered, or the laws of Great Britain, or some of the laws of the conquered, and some of the laws of Great Britain; Or whether any other laws should be introduced there, more peculiarly fitted to the circumstances of the province; and if any, then what laws should be so introduced: Or, if this detail be thought too troublesome for the Parliament to enter upon, and their informations concerning the state of the province should be deemed to be as yet too imperfect to enable them to go through such a business with propriety, then it is to be wished that an act of Parliament may be obtained, by which such a legislative power of making laws and ordinances for the good government of the province might be delegated to the governor and council, as has been already exercised by them by virtue of an instruction from the King alone. By such a delegated parliamentary authority, they may enquire into the state of the Canadian laws and customs already in force there, and may revise them and reduce them into

writing, and enact such of them as shall be found beneficial to the province, and fit to be continued; and may introduce such parts of the laws of England, as they shall think to be for the advantage of the province; and likewise as occasion offers, make such other new laws and regulations as shall be necessary for the good government of it: And in so doing they will have a due regard to the heads of advice suggested by Mr. Attorney Yorke, and to such other intimations and instructions as the government shall think proper to communicate to them. And lest this legislative power should be abused or injudiciously executed by the governor and council, there might be a clause in the act of Parliament directing them to transmit these several laws and ordinances to the King and Privy Council in England, to be by His Majesty in council allowed or disallowed, as his Majesty shall see cause. Only they should be in force till disallowed, and, if not disallowed within a certain time, as for instance two years, they should then be in force for ever, unless repealed by act of Parliament. Laws and ordinances founded on such a parliamentary authority will easily find obedience from the people, which it is to be feared no others will; and the judges of the province will carry them into execution with ten times as much spirit and confidence as if they were doubtful of their legal validity.

Suppose a Criminal in Canada to be guilty of an offence that is capital by the laws of England, but is not so by the laws of Canada that have hitherto been received, (a supposition that is no way difficult as the criminal law of England abounds with capital offences) in what manner shall such a man be punished, unless there is a parliamentary declaration determining the punishment that shall attend his crime? Could any lesser authority warrant the infliction of death for such a crime? Or would any judge chuse, though he should be sure of never being called to account for it, to pass such a sentence without the highest authority? But if the punishments of crimes be settled by authority of Parliament, whether immediately by the Parliament itself, or mediately by ordinances made by the governor and council of the province, by virtue of a legislative authority communicated to them by act of parliament, the judges will be under no other difficulty what punishments to inflict upon the several criminals, that come before them, than they are in Great Britain itself.

Some persons are of opinion, that the laws of Great Britain do at once take place in a conquered province, without any authoritative introduction of them, either by the King, or Parliament. But this opinion seems destitute of foundation,

and is sufficiently refuted by the advice of the learned M[r] Yorke,[1] His Majesty's attorney-general, who has advised that the Canadians should be permitted to retain their own laws, relating to inheritances and the alienation of their real estates, which would be impossible without an act of Parliament for that purpose, if the whole System of the laws of England did ipso facto become the law of the province upon its being conquered, or ceded to the Crown. Indeed, the whole system of the laws of England, taken in the gross, and without a selection, would be by no means a blessing to the Canadians. The game-laws, the poor-laws, the fictions and subtleties in various sorts of actions and conveyances, the niceties arising from the doctrine of uses, and the tedious and operose instruments founded on them, would really be a great misfortune to them; and from their novelty and strangeness, would be thought to be a much greater. This doctrine therefore of the instant validity of the whole mass of the laws of England throughout the conquered Province cannot be true. And if the whole system of those laws is not valid there, then certainly no part of them can be so. For if they are, then who shall distinguish which of them are valid there and which are not?

It may therefore be concluded, as at first, that none of the laws of England are valid in the conquered province ipso facto by virtue of the conquest, or cession, without a positive introduction there by a sufficient authority: and this sufficient authority seems, for the reasons already mentioned, to be only the Parliament of Great Britain.

Settlement of the Revenue.

The next great difficulty that calls loudly for the interposition of Parliament, is the low state of the revenue of the province of Quebec. Under the French government this revenue amounted to about thirteen thousand pounds per annum, but is now sunk to less than three thousand. The cause of this is the change in the course of trade, by which means it falls out, that those taxes which produced the principal part of the revenue, now, though still in force, produce nothing at all. The principal of those taxes was a duty upon French wines, which were imported there from old France in great quantities. This single duty produced 8,000l. a year; now it produces nothing, because no wines are allowed to be imported there from old France. Nor would it be replaced by an increase of the consumption of Spanish or Portuguese wines, supposing the tax might be construed to extend to those wines; for the Canadians do not like them, and will not drink them. From a like cause,

[1] See Report of Yorke and de Grey on the Civil Government of Quebec, p. 251.

another duty which formerly made a considerable part of the public revenue, which was a duty upon French brandies imported from old France, and French rums imported from the French West-India Islands, now produces nothing at all. From these causes the revenue is sunk so low that it is insufficient to defray the expence of the civil government, though the establishment of it is so very moderate. It is therefore become necessary, either for the treasury of England to issue a sufficient annual Sum to make good the salaries of the several officers of the government, or that some new tax should be imposed upon the inhabitants, in aid of those which by reason of these accidents have failed, sufficient for all the purposes of the government. If this latter method should be adopted, it is presumed that the authority of Parliament will be the proper power to have recourse to, that there may be no colour or pretence for contesting the legality of the taxes so imposed. This power also the Parliament may exercise, either immediately itself by imposing a tax upon the province of Quebec this very session, before the Parliament rises, or it may delegate to the governor and council a power to impose such taxes as they shall find necessary for the support of the government, subject, as above, to the disallowance of the King and Privy Council, in order to prevent abuses, and with proper clauses of restriction and appropriation of the money so raised, in order to prevent a misapplication of it, either by the Officers of the province, or at home.

If the Parliament should think proper itself to lay a tax upon the Province, information has been received from persons well acquainted with the state and trade of the province, that British spirits would be the commodity that could best bear a duty, and would produce the best revenue; that there are annually imported into the province about 250,000 gallons of these spirits, and that they might bear duty of three-pence a gallon without hurting the trade, but not more; and this would produce about 3,000l. a year.

The malicious and desperate enemies of an upright and popular Administration, may perhaps traduce such a measure as inconsistent with their late indulgent conduct with respect to the other American colonies in the late repeal of the stamp-act. But the difference of the cases is too striking to make such a calumny in the least degree formidable. The other American colonies have internal legislatures of their own, who have been permitted, ever since their first establishment, to be the assessors of all their internal taxes; and, as they had not abused this privilege with which they had been so long indulged, and further, as their exercising this privilege seemed to be no

way prejudicial to the mother-country, it seemed to have been a harsh and ungracious measure in the Parliament, by the advice of the late ministry, to revive and exert a dormant and inherent right of taxing them; which however the whole Parliament, excepting a very few members of both houses, have highly declared themselves to be possessed of. But the Canadians have no such internal legislature, no such usage of taxing themselves by representatives of their own chusing. Unless therefore they have the singular privilege of not being liable to be taxed at all, they must be liable to be taxed either by the King alone, or by the King and Parliament; and the milder of these two opinions is that they are taxable by the King and Parliament. Those therefore who should promote the taxing them by authority of Parliament, would act like the truest friends to civil liberty, and with the same spirit of mildness and moderation that conducted them in the repeal of the stamp-act.

If it should be said, that the province of Quebec ought to have an assembly in the same manner as the other American colonies, and that the taxes ought to be imposed by the consent of such an assembly, it will be sufficient for the present purpose, and to support the measure here suggested of taxing them by authority of Parliament, to answer that as yet no such assembly has been constituted; and till an assembly is erected, whether that time be short or long, the safest and mildest method of imposing taxes is to do it by authority of Parliament.

Of an Assembly

As to the erecting an assembly in that province, it is a measure which probably will not for some years to come be found expedient. If an assembly were now to be constituted, and the directions in the governor's commission, above alluded to, were to be observed, by which none of the members elected there are to be permitted to sit and vote in the assembly till they have subscribed the declaration against Popery, it would amount to an exclusion of all the Canadians, that is, of the bulk of the settled inhabitants of the province—[1] An assembly so

[1] This question arose in a very practical form in the island of Grenada, which, together with Canada, was transferred from France to England by the Treaty of 1763. It was referred to Attorney General Yorke for his opinion, in 1766. The case and opinion are summarised as follows:—"Case submitted to the Hon. C. Yorke with regard to Grenada, where the French residents have taken the oaths of allegiance, supremacy, and abjuration, but cannot make the declaration against transubstantiation. Of the 24 members composing the Assembly, they desire to have six chosen out of their own people; and of the 12 members in Council, they desire two; and one justice of the peace in each quarter, of which there are four; and they are now applying to the Administration to be indulged in these respects. In the Leeward Islands, Barbadoes, and Jamaica, they do not admit a person to be of the Council, Assembly, or a justice of the peace, but such as not only take the oaths of allegiance, supremacy, and abjuration (which all the French at Grenada have done), but also subscribe the declaration against transubstantiation; and in Grenada they follow the same rule. The questions submitted are—

"I. 'Can or ought the Act directing the test, made so long before the conquest of these countries, inhabited by Roman Catholics only, to be considered as a prohibitory law, excluding every Roman Catholic from any civil office in his own country? Or ought it to be considered as a law of Great Britain not extending to conquests?'

constituted, might pretend to be a representative of the people there, but in truth it would be a representative of only the 600 new English settlers, and an instrument in their hands of domineering over the 90,000 French. Can such an assembly be thought just or expedient, or likely to produce harmony and friendship between the two nations? Surely it must have a contrary effect.

On the other hand, it might be dangerous in these early days of their submission, to admit the Canadians themselves to so great a degree of power. Bigotted, as they are, to the Popish religion, unacquainted with, and hitherto prejudiced against the laws and customs of England, they would be very unlikely for some years to come, to promote such measures, as should gradually introduce the Protestant religion, the use of the English language, of the spirit of the British laws. It is more probable they would check all such endeavours, and quarrel with the governor and council, or with the English members of the assembly, for promoting them. Add to this, that they are almost universally ignorant of the English language, so as to be absolutely incapable of debating in it, and consequently must, if such an assembly were erected, carry on the business of it in the French language, which would tend to perpetuate that language, and with it their prejudices and affections to their former masters, and postpone to a very distant time, perhaps for ever, that coalition of the two nations, or the melting down the French nation into the English in point of language, affections, religion, and laws, which is so much to be wished for, and which otherwise a generation or two may perhaps effect, if proper measures are taken for that purpose. And further it may be observed, that the Canadians themselves do not desire an assembly, but are contented to be protected in the enjoyment of their religion, liberties, and properties, under the administration of his Majesty's governor and council. If, to give a proper stability to this mode of government, it is carried on by authority of Parliament, and is properly superintended,

"II. 'Is it in the power of the King, on any good consideration, to dispense with the test against transubstantiation in his new subjects in these conquered countries, either for ever or for any certain time? Or can this test be dispensed with by Act of Parliament only?'

"Mr. Yorke's reply is written on the blank pages of the 'case' submitted to him, apparently by his own hand. He says that in the new conquests, ceded by the late treaty, it is matter of political judgment whether His Majesty will require it to be taken by all persons who may become members of the Assembly or Council, or be appointed justices of the peace; but that the statute does not extend to them. The treaty of peace stipulates only the free exercise and toleration of the Roman Catholic religion in the countries ceded by France. His Majesty is still the judge whether he will demand the test from persons employed in offices of trust, or in any function relating to Government, so as to exclude his new subjects from any share in it. French Papists will readily enough renounce the supremacy of the Pope, and disclaim a foreign ecclesiastical jurisdictiion; but the test relates to a tenet of their religion and worship and therefore cannot in conscience be taken by them.

"It is mentioned that Canada was inhabited by 80,000 French Roman Catholics, and 200 or 300 English only." Calendar of Home Office Papers; 1766-1769, No. 403.

as no doubt it will be, by the wisdom of his Majesty's Privy-Council, they will think themselves extremely happy under it. The persons who most desire the immediate constitution of an assembly, are some of the six hundred English adventurers, who probably are ambitious of displaying their parts and eloquence in the characters of leading Assemblymen.

But if an assembly is to be constituted, even this too had better be done by act of Parliament than by the King's single authority, as it is no less than severing from the general body of his Majesty's dominions a particular part of them, with respect to the purposes of making laws and imposing taxes. Could the King, if he thought proper, and a particular county of England was to desire it of him, sever that county from the rest of England, and no longer summon any of its members to Parliament, but instead thereof constitute a little Parliament in that County itself, that should make laws and lay taxes for the inhabitants of that single county? It is presumed that he could not: and the erecting an assembly in a conquered province is an act of much the same nature. It is true indeed, that some of the American charters and assemblies owe their rise to this authority: but this was in the reign of the Stuarts, who were fond of extending their prerogative; and, on account of the inconsiderableness of the colonies at that time, these things were then unnoticed; so that they do not prove the strict legality of the practice. Since that time these charters have been put in practice by the colonies, and acquiesced in by the mother-country, and in some measure recognized in Parliament and this usage, acquiescence and recognition, are in truth their best support.

But if an assembly is to be constituted, in which the Catholics or Canadians are to be admitted, (as in justice and reason they ought to be, if any assembly at all is to be erected) the authority of Parliament seems to be still more necessary to give validity to such a measure.

For the reasons that have been just now mentioned, it seems evident, that the measure of erecting an assembly in the province of Quebec is somewhat premature. How soon it will become expedient and proper, experience only can shew. But in the mean time, however short that time may be, it seems necessary to have recourse to the authority of Parliament for settling the government of the province, and removing the difficulties that obstruct the settlement in the three great articles of Religion, Law, and Revenue. It is therefore the humble request of all the gentlemen who have lately been appointed to the principal offices in the government of Quebec, to his Majesty's

Ministers of State, that they would use their influence and endeavours to procure such an act of Parliament as they shall upon the whole matter think to be necessary, to remove the difficulties that have been stated, and to enable the said gentlemen to administer the government of that province in their several departments, with security to themselves, and advantage to the province.

ACTING GOVERNOR IRVING TO THE LORDS OF TRADE.[1]

Copy. QUEBEC 20th August 1766.

MY LORDS,

As the Courts of Justice are now sitting, I have an opportunity to observe the good Effects of the Additional Instruction,[2] which, by assuring to the Canadians the Privilege of being Jurors, and of having Lawyers that can speak their own Language, has contributed very much to quiet their minds, not a little alarmed by the long Delay which the matters that Captain Cramahé was charged with, met with in London. All that to me seems wanting at present, is a permanency to the inferior Court, and an Augmentation of the Terms of its sitting. The Slowness of the Proceedings of the Superior Court, has rendered the inferior one of great Utility to the Publick, and the small Fees taken in it, have prevented the people from becoming the Prey of attornies. The Chief Difficulty that has occurred is what happens in appeals from it to the Superior Court; as the Proceedings are threatened to be reversed on Account of deviation from the English Form, without entering into the merits of the Cause, or the Reasons upon which the Judgment was founded: The Canadian Advocates must have been inspired to have been able in so short a time to comply with Forms to which they were all Strangers, especially as the Ordinance directing the Nature of Proceedings in that Court has never been published, on Account of the uncertainty the Council was in, whether His Majesty would approve of what had already been done in these Matters or not.

Governor Murray had the Honor last Summer to transmit to your Lordships a Plan given by the Attorney General for the Administration of Justice, and agreable to that of Halifax. It appear'd to the Council rational and Simple. It is to be hoped the new Chief Justice will bring over full Instructions relative to these Matters.

As there are no Protestants residing in the distant parts of the Province, who are in any respect fit to be made Justices of the Peace, it would be very usefull, if a Latitude could be given to increase a little the Power of the Bailliffs in these places.

Some more certain Authority to the Judges of the Inferior Court to adhere to the Coutume de Paris in their Decisions would render the present

[1] Canadian Archives Q 3, p. 249.
[2] See Ordinance of July 1st, 1766, and note to same, p. 249.

System of administ'ring Justice easy to the people, and a certain, though moderate, method to introduce our Laws, as far as they are favorable to Liberty, into the Province. The Government here, tho' they wish to secure the People's Possessions, and the Peace of their Families by adhering to their Customs and Usages, relative to the tenure of their Lands, and their manner of Succession, are far from intending that the Judges should have the same arbitrary power of proceeding as the French Judges had; a Power, which is always dangerous, and which I am certain the Judges, named by Governor Murray for the inferior Court, are very far from aspiring after.

In order to expedite Business, as well as forward the levying the Duties ordered by His Majesty in Council, to be continued in this Province, an Additional Term has been found necessary, as you will see by an Ordinance,[1] which I have the honor to Enclose to your Lordships, as well as one proposed for regulating pilotage in the River Saint Lawrence; this last has not been published, as before next Season there will be sufficient time for your Lordships to signify either your Approbation or disapprobation of it; a Circumstance, that I could wish would attend every Ordinance, as appeals are always attended with Inconvenience.

I send you a Copy of the Attorney General's Report, relative to the Difficulties attending the levying the Duties[2] ordered by His Majesty in Council, to be continued in this Province.

I have the honor to be with much Respect,
My Lords,
Your Lordships most obedient humble Servant.
P. ÆMI[s] IRVING.

To the Right Honorable the Lords Commissioners for Trade and Plantations.

PETITION OF SEIGNEURS OF MONTREAL.[3]

Au Roy.

Les Seigneurs des terres et proprietaires des fiefs du district de Montréal en la province de Quebec, au pied du throne de Votre Majesté penetrés de la plus vive Reconnoissance, de toutes les marques de Bonté, dont il a plût à Votre Majesté, de les favoriser depuis qu'ils sont sous Votre Domination, Ozent prendre la Liberté, de lui présenter icy leurs très humbles actions de Grace en leurs Noms et Celuy de leurs tenanciers.

Le Soin vraiment paternel, que Votre Majesté n'a cessé d'apporter pour leurs Interets temporels, La Grace Signallée de posseder un Eveque, a excité dans le Cœur de tous les Nouveaux sujets les plus vifs sentiments de reconnoissance, D'amour et de fidelité envers Votre Majesté.

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[1] See Ordinance of July 26th, 1766, p. 250.
[2] This report is given in Canadian Archives, Q 3, p. 254. In the same volume will be found several other papers on this subject.
[3] Canadian Archives, Q 4, p. 31.

SESSIONAL PAPER No. 18

Ils Ne Sont pas moins sensibles à la dernière preuve de Votre tendresse, dont ils ont ressenty les gracieux effets dans la revoccation de L'acte des timbres.[1]

Ils Supplient Votre Gracieuse Majesté, qu'il leur soit Permis, de la remercier de leur avoir Donné pour Gouverneur L'honnorable Jacques Muray.. ils ozent esperer qu'elle voudra Bien leur Conserver, ce Digne Gouverneur, ses lumieres son Equitté sa prudence luy fournissent toujours des moyens efficaces pour maintenir les peuples dans la tranquillité et l'obeissance.

Les Marques de la Bonté d'un Roy, souvent réiterées en font toujours esperer de Nouvelles; c'est sur cela Qu'ils ozent luy Demander Deux graces, elles mettroient le Comble aux faveurs de Votre Majesté, et à leur Reconnoissance, & leur attachement.

La premiere, est la supression du Régisterre, dont les frais epuisent la Colonie sans quelle, en recoive Le moindre avantage.

La seconde est que tous les Sujets en cette province sans aucune Distinction de Religion soient admis à toutes les Charges sans autre Choix, que les talents et le meritte personnel, etre exclus par Etat d'y participer, n'est pas Etre member de l'estat, s'ils en ressent l'humiliation, ils ne connoissent pas moins le prix d'une grace aussy Distinguée, pour laquelle Ils ne peuvent offrir que des Cœurs pleins d'Amour et de Reconnoissance, Leur Zele, leur attachement et leur fidelité en seront les preuves marquées dans tous les tems a venir.

Perpetuellement, leurs discours, et leurs exemples tendront à maintenir leurs tenanciers dans les sentiments de la fidelité et soumission Qu'ils vous doivent, ils offriront sans cesse leurs prieres et leurs vœux pour la Gloire et la Conservation de Votre Majesté et de votre auguste famille.

Le Chvr D'aillebоust	Dailleboust De Caisy
D'Chambault	St. Ours
Lacorne	Montizambert
Ninerville	Blanau
Rouville	daudeguee
Neveu	Lavalterie
lefebvre	Boucherville
Montenon	J. de Muy
Normand	Chev. Hertel
Linctot	Pierre Lesieu (r) MS torn
Hertel	And. Barril
Duchesny	Godfroy
Duchesne	Normanvi (lle) MS torn
Le Cher Ninerville	God. Tonnancou (r) MS torn
Crosse	le febvre

[1] Referring to Grenville's Stamp Act, passed in 1765 and which applied to Canada as well as to the other American colonies. It was repealed in March 1766.

J. Courval	Desisles
La Grenier (frenier ?)	Beaulac
Crevier	L. Descheneaux.
St. françois	J. Descheneaux.
poisson	Gentilly.

Endorsed:—Petition to The King from the Principal People of Montreal R/ 3d Febry 1767.

(*Translation.*)

To the King.

The Seigneurs of the lands and proprietors of the fiefs of the district of Montreal, in the province of Quebec, at the foot of Your Majesty's throne, filled with the deepest Gratitude for all the marks of Favour with which it has pleased Your Majesty to honour them, since they have been under Your Government, Dare to take the Liberty of here presenting to You their most humble supplications in their own Names and those of their tenants.

The truly paternal Care which your Majesty has never ceased to bestow on their temporal Interests, and the signal Favour of possessing a Bishop have roused in the hearts of all the New subjects the liveliest sentiments of gratitude, of love, and of fidelity toward Your Majesty.

They are no less sensible of the last proof of Your affection, of which they have experienced the beneficial effects, in the revocation of the stamp act.

They beg Your Gracious Majesty that they may be permitted to thank You for having given them as Governor, the honourable James Murray, they dare to hope that You will graciously continue to them this Worthy Governor whose clearsightedness, Equity and wisdom continually afford him efficacious means for maintaining the people in tranquillity and obedience.

The frequently repeated Marks of a King's Goodness, always give ground for the hope of fresh ones, and it is on this ground that they dare plead for two privileges. These would fill up the measure of your Majesty's favours, & of their gratitude & devotion.

The first is the suppression of the Register, the expenses of which exhaust the Colony, without its receiving from it the least advantage.

The second is that all the subjects in this province without any Distinction of Religion may be admitted to any Office, the only basis of selection being that of capacity and personal merit. To be excluded by the State from participating in it, is not to be a member of the state. If they feel such a humiliation they would appreciate all the more the value of a favour equally marked, for which they can only offer their hearts full of love and gratitude. Their Zeal, their affection and their devotion shall be the signal proofs of it for all time to come.

SESSIONAL PAPER No. 18

Their precepts and their examples shall perpetually tend to maintain their tenants in the sentiments of fidelity and submission which they owe you, They will offer without ceasing their vows and their prayers for the Glory and Preservation of Your Majesty and your august family.

COMMISSION OF THE CHIEF JUSTICE.[1]

Quebec ss. GEORGE THE THIRD by the Grace of God, of Great Britain, France, and Ireland, KING, Defender of the Faith, and so forth; To our Trusty and well beloved WILLIAM HEY, Esquire, GREETING.

Commission to be Chief Justice of the province of Quebec

KNOW YE, that we having taken into our Royal Consideration, Your Loyalty, Integrity, and ability, Have, assigned, Constituted, and appointed, AND WE, do hereby assign, Constitute, and appoint, you, the said WILLIAM HEY, our Chief Justice of, and in our Province of Quebec in America; To Enquire by the Oaths of honest and lawful men of the province aforesaid, and by other lawful ways, Methods, and means, by which you can or may the better Know, as well within liberties, as without, of whatsoever Treasons, misprisions of Treason, Insurrections, Rebellions, Murders, Felonies, Homicides, Killings, Burglaries, Rapes of Women, Unlawful Congregations & Assemblies, words spoken, Misprisions, Confederacies, False Allegations, Trespasses, Riots, Routs, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenances, Oppressions, Champorties, Deceits, and other Misdoings, Offences, and Injuries whatsoever, as also of the accessaries thereto within the province aforesaid, as well within liberties as without, by whomsoever and howsoever had, done, perpetrated, or Committed, or which hereafter may happen to be done, perpetrated, or Committed, and by whom, to whom,

Power to inquire of all treasons, felonies, and other offences;

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[1] Canadian Archives, Register of Commissions, from Department of Secretary of State.

The mandate to the Governor to appoint Wm. Hey as Chief Justice is dated Feb. 3rd and is as follows:—

"The King's Mandate to the Governor or Commander in Chief of the Province of Quebec, requiring Him to appoint William Hey, Esquire, Chief Justice of the s[d] Province.

George R.

Trusty and well beloved, We greet you well, Whereas We have taken into our royal consideration the loyalty, integrity, and ability of our trusty and well beloved William Hey, Esquire, We have thought fit, hereby, to authorize and require you forthwith to cause letters patent to be passed under the seal of our province of Quebec in America, constituting and appointing him the said William Hey, our Chief Justice of, and in our said province; to have, hold, exercise and enjoy the said office unto him the said William Hey, for and during our pleasure, and his residence within our said province, together with all and singular the rights, profits, privileges and emoluments unto the said place belonging in the most full and ample manner with full power and authority to hold the supreme courts of judicature, at such places, and at such times as the same may and ought to be held within our said province. And for so doing, this shall be your warrant. And so we bid you farewell.

Given at our Court at St. James' the 3[d] day of February 1766 in the sixth year of our Reign.

By His Majesty's command

(signed) H. S. CONWAY

To our trusty and well beloved James Murray, Esquire, our Captain General and Governor in Chief in and over our Province of Quebec in America; and in his absence to the Commander in Chief of our said Province for the time being."

From copy in the Public Record Office. See also note p. 256.

when, where, and how, and of all other articles and Circumstances, the premises, or any of them, any wise Concerning: And the said treasons and other the premises to hear and determine, according to the law and Custom of that part of our Kingdom of Great Britain Called England, and of our said province of Quebec, hereafter to be made. THEREFORE WE Command that, at such certain days and places as you shall appoint, You make diligent inquiry of the premises; and all and singular the premises you hear and determine; and the same do and fulfil in form aforesaid, doing therein that which to Justice doth belong or appertain, according to the Law and Custom of that part of our Kingdom of Great Britain Called England, and of our said province of Quebec hereafter to be made: Saving to us our Amerciaments and other things thereby to us belonging; for we will Command all and every our Sheriffs or provost Marshal's of our province aforesaid; That at such certain days, and places as you our Chief Justice shall make known to him, them, or any of them, they cause to come then and there before you such and so many honest and lawful men of our said province as well within liberties as without, by whom the Truth of the matter may be the better Known and inquired of.

and the same to hear and determine according to the laws of England and the ordinances of the province hereafter to be made.

AND FURTHER, KNOW YE That we have assigned, Constituted, and appointed, and by these presents, do assign, Constitute and appoint you, the said WILLIAM HEY, our Goal of our Province aforesaid, of the prisoners therein hereafter to be to deliver. AND, therefore we Command you that, at such Certain days & places as you shall appoint, you come to our Court-House of our said Province the Goal in our said province of the prisoners hereafter therein to be to deliver, doing therein what to justice doth, or may, belong or appertain, according to the Law & Custom of that part of our Kingdom of Great Britain called England, and of our said province of Quebec hereafter to be made; saving to us our amerciaments and other things thereby to us belonging: For we will Command all and every our Sheriffs and provost Marshals of our said Province of Quebec that, at such Certain days and places as you our Said Chief Justice shall make known to him, them, or any of them, they Cause to Come then and there before you our said Chief Justice all the prisoners of the same Goal and their attachments.

Power to deliver goals of prisoners therein confined.

AND FURTHER KNOW YE That we have assigned, Constituted and appointed, and by these presents, do assign, Constitute and appoint, YOU, the said WILLIAM HEY, Our Chief Justice of Our Supreme Court of Judicature of our said province of Quebec, to inquire by the oaths of honest and lawful men of the province aforesaid, and by other lawful ways, methods and means, by which

Power to hear and determine all civil suits and actions, whether real, personal, or mixt, either between the King and a

subject, or between subject and subject.

you can or may the better Know, as well within Liberties as without, of all civil pleas, actions, and suits, as well real and personal, as mixed, between us and any of our Subjects, or between party and party, by whomsoever had, brought, sued and Commenced, and of all other articles and circumstances the premises, or any of them, any wise Concerning: and the said pleas, actions, and suits, and every of them, to hear and determine in manner and form aforesaid, doing therein that which to Justice doth belong and appertain according to the Laws and Customs of that part of our Kingdom of Great Britain Called England, and the Laws, Ordinances, Rules, and Regulations of our said province of Quebec, hereafter in that behalf to be Ordained and made. THEREFORE WE Command you that, at such Certain Days and places, as you shall appoint, you make diligent inquiry of the premises; and all and singular the premises to hear and determine in manner and form aforesaid, doing therein that which to justice doth belong or appertain according to the Law and Custom of that part of our Kingdom of Great Britain Called England, and the Laws, Ordinances, Rules, and Regulations, of our said province of Quebec hereafter in that behalf to be made: FOR WE will Command all and every Our Sheriffs or provost Marshal of our province aforesaid that at such Days and places, as you our Said Chief Justice shall make Known to him, them, or any of them, they Cause to Come then and there before you, such and so many honest and lawful men of our said province, as well within liberties as without, by Whom the truth of the matter may be the better Known.

This Office to be held during the Kings pleasure and the Chief Justice's residence in the province.

TO HAVE, HOLD, AND EXERCISE the said Office of our chief Justice of and in our Said province of Quebec, for and during our Royal Will & pleasure and your Residence within our Said province; Together with all and Singular the Rights, profits, free priviledges, and Emoluments to the said Office belonging, in as full and ample manner as any other Chief Justice of any of our provinces of America HATH heretofore held and Enjoyed, or of right ought to have, hold, or Enjoy, the same, with full power and authority to hold the Supreme Courts of Judicature at such places and times as the same may or ought to be held within our said province.

IN TESTIMONY whereof we have Caused these our Letters to be made patent and the Great seal of our said province of Quebec, to be hereunto Affixed, and to be entered on record in one of the Books of patents in our Registers Office of Inrollments of the said province WITNESS Our Trusty and well beloved. The Honble Guy Carleton Esquire, OUR Lieutenant Governor and Commander in Chief in and over our said province of Quebec and the Territories thereon depending in America, at our Castle

of Saint Lewis in our said City of Quebec, The Twenty-fifth Day of September in the Year of our Lord one Thousand seven hundred & Sixtysix, and in the Sixth Year of our Reign.

(LS) (Signed) GUY CARLETON

By the Lieutenant
Governor's Command.

(Signed) J GOLDFRAP
D. Sec^{y}

FIAT of the above Commission

Recorded in the Registers Office at Quebec the 25th Day of September 1766

(Signed) J. GOLDFRAP,
D Reg^{r}

CARLETON TO SHELBURNE.[1]

QUEBEC 25th Oct^{r} 1766.

My Lord!

I have the Honor of receiving your Lordship's Letter of the 9th of August, with the Order of Council of the 8th, which shall be punctually obeyed–[2]

* * * * * * * * * *

The Subject of the inclosed Remonstrance is another Matter I have to mention. Your Lordship will see by my Letter to the Lords of Trade, by the Minutes of Council, and by the Minutes of the Committee, that nothing has been done that required a Council, my calling a few Councillors, was

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[1] Canadian Archives, Q 3, p. 261. Though Governor Murray had been recalled to England, April 1st, 1766, he was not for some time deprived of his office as Governor of Quebec. Hence Gen. Guy Carleton who succeeded him was at first appointed as Lieutenant Governor, under the following Commission:—"George the Third, by the Grace of God, King of Great Britain, France, and Ireland, Defender of the Faith, and so forth; To our trusty and well-beloved Guy Carleton, Esquire, Greeting:

"We, reposing especial trust and confidence in your loyalty, integrity, and ability, do, by these presents, constitute and appoint you to be our Lieutenant Governour of our province of Quebec, in America; to have, hold, exercise, and enjoy the said place and office during our pleasure, with all rights, privileges, profits, perquisites, and advantages to the same belonging or appertaining.

"And further, in case of the death, or during the absence, of our captain general and governour in chief of our said province of Quebec, now, and for the time being, we do hereby authorize and require you to exercise and perform all and singular the powers and directions contained in our commission to our captain general and governour in chief, according to such instructions as he has already received from us, and such further orders and instructions as he, or you, shall hereafter receive from us.

"And we do hereby commend all and singular our officers, ministers, and loving subjects in our said province, and all others whom it may concern, to take due notice hereof, and to give their ready obedience accordingly.

"Given at our court at St. James's, the seventh of April 1766, in the sixth year of our reign.

"By his Majesty's command.
(Signed) H. S. CONWAY.

"Guy Carleton, Esquire, Lieutenant Governor of Quebec." A Collection of several Commissions and other Public Instruments, &c. by Francis Maseres. London: 1772. p. 122.

As this commission indicates, Carleton acted under the instructions given to Murray until his own appointment as Governor in Chief in 1768, when he received new instructions. In the meantime, however, several additions were made to the Council of Quebec, under the King's mandamus.

William Earl of Shelburne became Secretary of State for the Southern Department, July 13, 1766.

[2] A portion of this despatch, dealing with local troubles over trading privileges &c., is omitted.

meerly from prudential Reasons, and for private Information. As to the Members of Council, they themselves could have no Doubt who should have the Precedence, as the Case of M[r] Stuart doth prove; Hitherto I have been silent on that Subject, not that I doubt of the King's Intentions, but as I understand these Gentlemen are searching an Excuse to resign their Seats, and make a Noise; I shall give them Time to cool and Reflect, till Matter occurs that may require a Council. The great Leader of the intended Opposition is M[r] Mabane,[1] who followed the Army, as Surgeon's Mate into this Country; He hoping and believing this Government unsettled is determined to make some considerable Agitation; I trust he will not succeed: Captain Cuthbert threatens me much with his Friends, says he was forced into the Council by Governor Murray on his Departure, much against his will; but now he is in, he will shew the World who has Friends, and who shall be turned out. I laugh and make no answer. M[r] Walter Murray who has acted as a strolling Player in other Colonies, here as a Councellor; M[r] Mounier, an honest quiet Trader, who knows very little of our Language or Manners, like most of the Canadians, will sign, without Examination whatever their Acquaintance urge them to, and Lieutenant Colonel Irving who professes he signed this, and the Order of Council mentioned above, because his Friends desired him—

All these little Workings I look on as the natural Consequence of the late Tempest, which after a few Months settled Calm must insensibly subside and die away. In General His Majesty's Subjects here seem rather to want Instruction, than Reproof. To know clearly the King's Will, and to see it steadily pursued here, will, or I am much mistaken, soon occasion a quiet and dutiful Obedience, in Spite of the Opposition of a few self Interested Individuals,

I am with much Respect and Esteem
Your Lordships
Most Obedient Humble Servant
GUY CARLETON

Right Honorable Earl of Shelburne
One of His Majesty's principal Secretaries of State.

REMONSTRANCE OF MEMBERS OF COUNCIL.

QUEBEC Octo[r] 13[th] 1766.

To the Hon[ble] Brig[r] Gen[l] Guy Carleton Lie[t] Gov[r] of the Province of Quebec, & Brig[r] Gen[l] of His Majestys Forces &c.

We the underwritten Members of His Majesty's Council for the Province of Quebec, think it our indispensible duty to communicate to you our sense of the method lately adopted of calling together only a part

[1] Adam Mabane was a member of the first Council appointed by Governor Murray in 1764; the other members were Chief Justice Gregory, P. Æmilius Irving, H. T. Cramahé, Walter Murray, Samuel Holland, Thos. Dunn and François Mounier.

of the Council: The bad consequences which may arise from Practice are manyfold; But as you are pleased to signifye to Us by Coll. Irving that it was accident, & not Intention, it is needless for us to enumerate them.

We would be wanting to ourselves, & Others in the same Circumstances if we did not remonstrate against an opinion lately insinuated, as if Mandamus's from Brittain suspended Appointments to the Council made by Gov^{r} Murray. We apprehend his Commission & Instructions, by which he was authorized to constitute a Council & to make choice of the Persons, to be to all Intents & purposes, a Mandamus to each of Us, provided His Majesty did not disapprove of Us, when reported to Him by the Governour: The many Difficulties which for Two Years we had to encounter in a new Establishment for a Province under very peculiar circumstances, perhaps entitle us to some Reguard: At any Rate tho' His Majesty may have an undoubted Right to encrease the number of his Council by granting Mandamus's to whom He pleases, it is to be presumed that by so doing there is no Intention to deprive Us either of our Right to Precedence, or to a Seat in Council: A late event on the Departure of Govr Murray is a proof of the contrary.

If by the Constitution or Custom of the Colonys the number of the Council is restricted, Mandamus's are in that Case to be regarded only as an Order for the Admission of the Persons named therein, Provided there is a Vacancy.

If the Deference which we feel for every Manifestation of the Will of our Sovereign has prevented us from objecting to any person possessed of a Mandamus from being sworn into the Council, We apprehend that if the Council is at present, or hereafter may be restricted, The Councillor last admitted is to be considered as the Supernumerary.

We have the hon^{r} to be wth the greatest respect

S^{r} y^{r} most obed^{t} h^{ble} Serv^{ts}.

(Signed) P. Æmi^{s} Irving
Wa^{r} Murray
Adam Mabane
Fr^{s} Mounier
James Cuthbert.

Endorsed: Copy ·|· Remonstrance of L^{t} Col^{l} Irving and other Members of His Majesty's Council at Quebec 13th Oct^{r} 1766.

In Lieu^{t} Gov^{r} Carleton's, of the 25th Oct^{r} 1766.

GOVERNOR CARLETON'S REPLY.

To Lieut^{t} Colonel Irving Major to the 15th Regiment. M^{r} Walter Murray, M^{r} Adam Mabane Surgeon, M^{r} Francis Mounier Merchant, Captain James Cuthbert— —

SESSIONAL PAPER No. 18

GENTLEMEN

As Lieutenant Colonel Irving has signified to you, that the Part of my Conduct, you think worthy your Reprehension, happened by Accident, let him explain to you his Reasons for so doing, He had no authority from me— —

But that there may be no further Doubt, I hereby make known to you, that I both have and will, on all Matters which do not require the Consent of Council, call together such Councellors as I shall think best qualified to give me Information: and further, that I will ask the Advice and Opinion of such Persons, tho' not of the Council as I shall find Men of good Sense, Truth, Candor, and Impartial Justice; persons who prefer their Duty to the King and the Tranquillity of His Subjects to unjustifiable Attachments, Party Zeal, and to all selfish mercenary views: After I have obtained such Advice, I will still direct as to me shall seem best for His Majesty's Service, and the Good of His Province committed to my Care— —

I further make Known to you, and for the first time I give an Opinion, that for the present His Majesty's Council consists of twelve Members; those named and appointed immediately by the King[1] have the Preference, next follow those appointed by Governor Murray till the Seats are all full:

You will be pleased to recollect, Gentlemen, that M[r] Stewart, tho' sworn into Council after M[r] Mounier, has by Virtue of the King's immediate Appointment constantly taken Place and Precedence of you all.

I must also remind you, that His Majesty's Service requires Tranquility and Peace in His Province of Quebec, and that it is the indispensable Duty of every good Subject, and of every honest Man, to promote so desirable an End.

(Signed) GUY CARLETON.

Endorsed: Answer to Lieu[t] Col. Irving, M[r] Walter Murray &c, Oct[r] 1766.

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[1] In the Instructions given to Governor Murray, in addition to certain ex-officio members, such as the Chief Justice and the Surveyor General of Customs, he was authorized to select and appoint eight other members to constitute the Council of the Province. In the Instructions given to Governor Carleton, however, the members of the Council were specifically named as appointed by the King. See p. 301. The following is a list of the members of Council at the end of 1766 with the dates of their admission:—

1764.

"August 13[th] Paul Æmi[s] Irving— Again swore in 24[th] Sep[r] 1766 by mandamus
Hector Theophilus Cramaché dated 21[st] June 1766, swore in again 24[th] Sept. 1766
Samuel Hollandt.
Walter Murray, Again swore in 24[th] Sep[r] 1766.
Adam Mabane— Ditto Ditto
Thomas Dunn— ditto ditto
Francis Mounier

Oct[r] 10[th] 1766. James Goldfrap, by mandamus, dated 20[th] July 1764 again swore in 24[th] September

Oct[r] 31[st] 1765 Benjamin Price

June 20[th] 1766. Charles Stewart, S. F. by mandamus

June 14[th] James Cuthbert.

ditto 30[th] Thomas Mills, R. G.—by mandamus.

Sep[r] 25[th] William Hey C. J—*by mandamus

The above is a true List of the members of His Majesty's Council of the Province of Quebec with the Times of their being sworn in, taken from the Council Book Kept in my office.

*in the room of William Gregory, Esq[r] late Chief Justice, and struck out of the Council"

(Signed) Ja: POTTS, D.C.C.

Endorsed—Copy of the List of Council of Quebec 1766

CARLETON TO GAGE[1]

Copy of a Letter from Major General Carleton to His Excellency General Gage, dated at Quebec 15th Febry 1767—

Sir

The Forts of Crown Point, Ticonderoga, and Fort George are in a very declining Condition, of which, I believe, Your Excellency is well informed; should you approve of keeping up these Posts, it will be best to repair them as soon as possible. As you have been pleased to desire my Opinion of this Measure, I must freely say, that the more I consider the State of Affairs on this Continent,[2] more and stronger Reasons present themselves, and I am the more convinced, it is not only expedient, but indispensably necessary for the Interest of Great Britain, and His Majesty's Service, not only to keep these in good Repair, but to erect a proper Place of Arms near the Town of New York, and a Citadel in or near the Town of Quebec. These with temporary Works thrown up occasionally at the other Places of Landing and Embarking, will secure the Communication with the Mother Country, and will link these two Provinces so strongly together, as will add great security to both; they will facilitate the Transport of ten or fifteen thousand Men in the Beginning of a War, from the one to the other, as the Circumstances require—

The natural and political Situation of the Provinces of Quebec and New York is such, as must for ever give them great Influence and Weight in the American System, therefore no Pains, Address, nor Expence too great to root out Faction or Party; to establish Tranquillity, and a firm Attachment to His Majesty's Government, at the same time it is equally essential to establish that security and Strength as can properly curb and overawe, should such ever arise, who by the Ties of loyal Subjects and honest Men, are not thoroughly bound to their Duty.

This Communication so established, will give Security to the King's Magazines, till then precarious, and doubtfull who may avail themselves of them; will separate the Northern from the Southern Colonies, will afford an easy and advantagious Opportunity of transporting His Forces into any part of this Continent, and may prevent the greatest of all Inconveniencies, Delay and Loss of Time in the Beginning of a War.

The Walls of this Place have not been repaired since the Siege, which left many Holes in the Masonry, that will precipitate their Ruin if not soon repaired; I have not one Engineer in the Province to form an Estimate of the Repairs, or make any Alteration that may be immediately necessary.

(a true Copy)

H. T. CRAMAHÉ

Endorsed: Copy of a Letter from General Carleton to His Excellency General Gage, dated at Quebec, 25th Feby, 1767. In Lieut.-Governor Cramahé's Letter of the 9th Novr

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[1] Canadian Archives, Q 4, p. 100.

[2] Referring to the troubles which were developing in the American colonies.

SESSIONAL PAPER No. 18

SHELBURNE TO CARLETON[1]

WHITEHALL 20th June 1767.

LIEUT. GOVERNOR CARLETON.

SIR,

Since my Letter of 26th May,[2] I have received yours of 28th March,[3] which I have had the Honor to lay before the King, & I have the Pleasure of confirming to you, His Majesty's gracious Approbation of your Conduct. The Rectitude of those Principles by which you have governed yourself, & your firm tho' dispassionate manner of Proceeding, if persevered in, cannot fail of giving due weight to your Administration, of allaying any remains of Faction which may not yet have subsided, & of putting an End to those Impediments which too often arise from private Views & personal Jealousies.

* * * * * * * * *

As the right Administration of Government in Quebec is a matter of the greatest Importance to that Province, the Improvement of its Civil Constitution is under the most serious & deliberate consideration of His Majesty's Servants & principally of His Majesty's Privy Council. Every light which can be procured on this Subject, will be material as well as every Information which can tend to elucidate how far it is practicable and Expedient to blend the English with the french Laws in order to form such a System as shall at once be Equitable & convenient, both for His Majesty's Old and New Subjects, in order to the whole being confirmed & finally established by Authority of Parliament.

* * * * * * * * *

I am &c[a]

SHELBURNE

Endorsed:—(N° 4) Dra[t] to Lieut.-Gov[r] Carleton 20th June 1767.

CARLETON TO SHELBURNE[4]

QUEBEC 25th Nov[r] 1767.

My Lord!

As Your Lordship informs me, that the Improvement of the Civil Constitution of Quebec is under the most serious and deliberate Consideration of His Majesty's Servants, and that any Light, which can be procured on that Subject, will be material, I shall endeavour to represent the true Situation of the Province, and add such Observations, as have occurred to me, with that Candor, which, I think, the King's Service requires, in Compliance with what your Lordship seems to desire, and least His

[1] Canadian Archives, Q 4, p. 130. The omitted portions of this despatch refer to the Walker assault case and disputes with reference to the Indian Trade.
[2] Given in Q 4, p. 106.
[3] With reference to the Indian Trade; given in Q 4, p. 111.
[4] Canadian Archives, Q 5-1, p. 260.

Majesty's Servants, Employed in a Work of so great Importance, tho' of profound Knowledge and Judgment, for Want of having truly represented, to them, Objects at so great a Distance, and in themselves so different from what is to be found in any other of His Dominions, I say, least without a true Representation of Things, the Kings Service should not profit, as much as possible, of the great Abilities of His Servants—

I take for granted, that the natural Rights of Men, the British Interests on this Continent, and the securing the Kings Dominions over this Province, must ever be the principal Points in View, in forming it's Civil Constitution, and Body of Laws; And that the last, is the Foundation of all, without which, other schemes can be little better than meer Castles in the Air; it will naturally follow, I should first shew, How far this Foundation is, or is not firmly laid—

The Town of Quebec is the only Post, in this Province, that has the least Claim to be called a fortified Place; for the flimsy Wall about Montreal, was it not falling to Ruins, could only turn Musketry; it will be sufficiently accurate for the present Purpose, if this Town be considered as a good Camp for ten or twelve Battalions, whose Front is fortified by a Bastioned Rampart, faced with Masonry; built, for the most Part, upon a Rock; without Ditch or outwork; it's Profile, slight for a Fortress, is substantial for an Encampment, it's Parapet in very bad Order. The Flanks and Rear of this Encampment, in one thousand seven hundred and fifty nine, were closed partly by a thin Wall, the rest by great Stakes, now carried away, or rotten; these ran along the Heights and Precipices at a little Distance from the River St. Lawrence, the Bason, and River St. Charles, so as to leave a Passage between this Line and these Waters. With a Number of Troops sufficient for this Post, those Flanks and Rear might in a little Time be secured, and guarded so, as to reduce an Enemy to form his Attack in Front, but in Proportion as the Numbers fall short, the Danger increases, of being surrounded and Stormed with little ceremony; especially when this Line is open in many Places, as at present.

The King's Forces in this Province, supposing them compleat to the Allowance, and all in perfect Health, Rank and File, would amount to sixteen hundred and twenty seven Men, The King's old subjects in this Province, supposing them all willing, might furnish about five hundred Men, able to carry Arms, exclusive of his Troops; that is supposing all the King's Troops and old Subjects collected in Quebec; with two Months hard Labour, they might put the Works in a tolerable State of Repair, and would amount to about one third of the Forces necessary for it's Defence.

The new Subjects could send into the Field about eighteen thousand Men, well able to carry Arms; of which Number, above one half have already served, with as much Valor, with more Zeal, and more military Knowledge for America, than the regular Troops of France, that were joined with them.

SESSIONAL PAPER No. 18

As the common People are greatly to be influenced by their Seigneurs, I annex a Return of the Noblesse of Canada,[1] shewing with tolerable Exactness, their Age, Rank, and present Place of Abode, together with such Natives of France, as served in the Colony Troops so early in Life, as to give them a Knowledge of the Country, an Acquaintance and Influence over the People, equal to Natives of the same Rank; from whence it appears, that there are in France, and in the French Service, about one hundred Officers, all ready to be sent back, in Case of a War, to a Country they are intimately acquainted with, and with the Assistance of some Troops, to stir up a People accustomed to pay them implicit Obedience. It further shews, there remain in Canada, not many more than seventy of those, who ever had been in the French Service; not one of them in the King's Service, nor one who, from any Motive whatever, is induced to support His Government and Dominion; Gentlemen, who have lost their Employments, at least, by becoming His Subjects, and as they are not Bound by any Offices of Trust or Profit, we should only deceive ourselves by supposing, they would be active in the Defence of a People, that has deprived them of their Honors, Privileges, Profits and Laws, and in their Stead, have introduced much Expence, Chicannery, and Confusion, with a Deluge of new Laws unknown and unpublished. Therefore all Circumstances considered, while Matters continue in their present State, the most we may Hope for from the Gentlemen, who remain in the Province, is a passive Neutrality on all Occasions, with a respectful Submission to Government, and Deference for the King's Commission in whatever Hand it may be lodged; this they almost to a Man have persevered in, since my Arrival, notwithstanding much Pains have been taken, to engage them in Parties, by a few, whose Duty, and whose Office should have taught them better. This Disposition the French Minister seems to have foreseen, as appears by Orders calculated to draw them from Canada into France, well knowing that such as remained, were bound by Duty and Honor to do nothing against their Allegiance to the King, under whose Government they live, whereas those, who go to France, are to all Intents and Purposes Officers in the French Service, and liable to be sent on any Service.

For these Reasons, I imagine, an Edict was published in 1762. Declaring, that notwithstanding the low State of the King's Finances, the Salary of the Captains of the Colony Troops of Canada should be raised from four hundred and fifty Livres, the Establishment at which their Pay was fixed at first, to six hundred Livres a Year, to be paid quarterly, upon the Footing of Officers in full Pay, by the Treasurer of the Colonies, at the Quarters assigned them by His Majesty in Touraine, and that such of them, as did not repair thither, should be struck off, the King's Intentions being, that the said Officers should remain in that Province, untill further

[1] Canadian Archives, Q 5-1, p. 269. This is printed in full in the Report on Canadian Archives for 1888, p. 44.

Orders, and not depart from thence without a written Leave from the Secretary of State for the Marine Department.

A few of these Officers have been sent to the other Colonies, but the greater Part still remain in Touraine and the Arrears due to those, who have remained any Time in this Country, are punctually discharged, upon their Emigration from hence, and Obedience to the abovementioned Injunction.

By the Secretary of State's Letter, a certain Quanty of Wine, Duty free, is admitted to enter the Towns, where these Canadian Officers Quarter, for their use, according to their several Ranks.

Having arrayed the Strength of His Majesty's old and new Subjects, and shewn the great Superiority of the Latter, it may not be amiss to observe, that there is not the least Probability, this present Superiority should ever diminish, on the Contrary 'tis more than probable it will increase and strengthen daily: The Europeans, who migrate never will prefer the long unhospitable Winters of Canada, to the more chearful Climates, and more fruitful Soil of His Majesty's Southern Provinces; The few old Subjects at present in this Province, have been mostly left here by Accident, and are either disbanded Officers, Soldiers, or Followers of the Army, who, not knowing how to dispose of themselves elsewhere, settled where they were left at the Reduction; or else they are Adventurers in Trade, or such as could not remain at Home, who set out to mend their Fortunes, at the opening of this new Channel for Commerce, but Experience has taught almost all of them, that this Trade requires a Strict Frugality, they are Strangers to, or to which they will not submit; so that some, from more advantagious Views elsewhere, others from Necessity, have already left this Province, and I greatly fear many more, for the same Reasons, will follow their Example in a few Years; But while this severe Climate, and the Poverty of the Country discourages all but the Natives, it's Healthfulness is such, that these multiply daily, so that, barring Catastrophe shocking to think of, this Country must, to the end of Time, be peopled by the Canadian Race, who already have taken such firm Root, and got to so great a Height, that any new Stock transplanted will be totally hid, and imperceptible amongst them, except in the Towns of Quebec and Montreal.

'Twas partly from these Considerations, as well as from those mentioned in my Letter of the 15th February[1] last to the Commander in Chief, a Copy of which I enclosed to Your Lordship, that I recommended the building of a Citadel within the Town of Quebec, that the Troops might have a Post capable of being defended by their Numbers, till Succour could be sent them from Home, or from the neighbouring Colonies; for should a French War surprise the Province in it's present Situation, the Canadian Officers sent from France with Troops, might assemble such a Body of People,

[1] See Carleton to Gage; p. 280.

SESSIONAL PAPER No. 18

As would render the King's Dominion over the Province very precarious, while it depends on a few Troops, in an extensive Post, open in many Places. A proper Citadel once erected, the Situation of Things will be greatly changed, the King's Enemies, who would attempt to disturb this Province, must hazard a larger Stake, and the Chances against them will be very considerably augmented; Greater Preparations must be made, which must give an Alarm at Home, a greater Number of Troops must be sent, with a Train of Artillery for a Siege, and a large Quantity of Ammunition, and Provisions, with a Fleet of Transports, and Ships of War to protect and assist in the different Operations, whose Success may be uncertain, but which, at all Events, must give Time for a Superior Squadron to follow, and catch them in the River, as well as to the Troops and Militia from the neighbouring Provinces to pour into this; a Work of this Nature is not only necessary as Matters now stand, but supposing the Canadians could be interested to take a Part in the Defence of the King's Government, a Change not impossible to bring about, yet Time must bring forth Events that will render it essentially necessary for the British Interests on this Continent, to secure this Port of Communication with the Mother Country; as might easily be proved, were they not too remote for the present Purpose.

Inclosed is the Plan for such a Citadel, as I think, would answer all the present and future Purposes of Great Britain, tho', if I am not mistaken, Captain Gordon the Engineer has already transmitted Home one more detailed, with a Calculation of the Expence necessary for its Construction.

I am with much Respect and Esteem

Your Lordship's

Most Obedient Humble Servant

GUY CARLETON

The Earl of Shelburne One of
His Majesty's principal Secretaries

RESOLUTION OF PRIVY COUNCIL AS TO INFORMATION REQUIRED CONCERNING THE PROVINCE OF QUEBEC.[1]

AT THE COURT OF ST. JAMES'S

the 28th, Day of August, 1767.

Present

THE KING'S MOST EXCELLENT MAJESTY.

Lord Chancellor	Viscount Townshend
Lord President	Mr Secry Conway
Earl of Shelburne	Sir Edwd Hawke

Whereas there was this day read at the Board a Report from the Rt. Honble, the Lords of the committee of Council for Plantation Affairs dated this day in the words following vizt:

[1] Canadian Archives, Q 4, p. 327.

"The Lords of the Committee having this day taken into their consideration a Draught of Instructions prepared by the Board of Trade for establishing courts of Judicature in the Province of Quebec and transmitted to this Committee on the 24th June 1766.[1] Their Lordships upon full consideration of the sd Draught of Instructions, are of Opinion that the same is so general, and so unsupported by any specific or particular proof of any Grievances in Judicature, to which any particular and effectual Reform or Remedy can be applied (except what has already been given) and especially as since the return of Genl. Murray, no Govr or locum tenens, or any of your Maty's law officers, have represented in their correspondence Gravamens arising to the subjects in the Province from any defects in the state of Judicature as it at present exists (which had any material ones existed it was their Duty to do, and they certainly would have done) except a Paragraph in a Letter from Col. Irving, dated 20th Augt. 1766.[2] Vizt, "all that to me seems wanting at present is a permanency to the inferior Courts and a more ample authority for the Judges of it to adhere to the Coutumes de Pais a defect if it subsists, so concisely & unexplicitly stated is not to be understood so as to found a Judgement of the Remedy to be applied, that the Lords of the committee cannot without further Information, advise your Majesty to approve thereof, and order the same to be carried into execution.—But as their Lordships are truly sensible of your Majesty's Royal constitutional and paternal Regard for all and every part of Your Majestys Dominions and Your Subjects inhabiting therein, the Committee do after the most serious & mature deliberation on the subject referred by your Majesty to them for their advice thereupon, submit as their humble advice to your Maty. That in order to amend any defects in the present State of Judicature in the Province of Quebec (if any such subsists) it is proper and absolutely necessary after a competent experience now had of the State of the Province so particularly composed of English and Canadian Subjects, and of the Judicature and administration of Justice now subsisting, to obtain from Your Majesty's Servants there, on whose information alone your Majesty's Servants (there, on whose information alone your Majesty's Servants*) in this Kingdom can rely with any reasonable degree of confidence, precise, solemn & authentic Information of the Defects if any that are now existing, together with the Remedies, Reforms, Additions, or Alterations which they would propose for your Majesty's Royal consideration, that so your Majesty's Servants here may be enabled to advise your Majesty on the best Light that can be obtained, it being, as the Lords of the Committee conceive, unwise

[1] The letter from the Board of Trade transmitting this draught is given in Can. Archives, Q 3, p. 171, but the instructions do not accompany it. According to the letter the instructions require the Governor to establish courts of justice "conformable to the Plan proposed by us in our Report to your Lordships of the 2nd September 1765, with such Variations as are suggested in the Report of the Attorney and Solicitor General, annexed to your Lordships Order of the 13th of last month." For the Report of Sept. 2nd see p. 237. For the Report of the Attorney and Solicitor General, see p. 251.

[2] See p. 269.

*The words in parenthesis seem to be a repetition.

and Dangerous to the Province to frame or reform Laws in the Dark, and upon speculation only, and for the purpose of obtaining such necessary Information on so serious and important a subject—Their Lordships humbly submit to your Majesty, to order your now Govr of the said Province, or his locum tenens, with the advice and assistance of the Council, the Chief Justice and Attorney Genl. of your Majesty's Province, and taking such other assistance as shall be thought necessary to report to your Ma'ty.

1st "Whether any and what defects are now subsisting in the present state of Judicature."

2d "Whether the Canadians in particular are, or think themselves aggrieved according to the present administration of Justice. Wherein and in what respects together with their Opinions of any alterations, additions or amendments that they can propose for the General Benefit of the said Province, and that such Alterations or Amendments for the clearer apprehension thereof be transmitted in form of Ordinance, but not passed as such, and that such Report be returned signed by your Majesty's Govr or locum tenens the said Chief Justice & Attorney Genl. But if they should not concur, the Person or Persons differing in opinion be required to report the difference of his opinion, together with his reasons for such difference of Opinion fully and at large. And that a fit and proper Person be sent with such Instructions and to bring back such Report for the most convenient dispatch, and who being properly recommended to the said Officers may be enabled to explain any difficulties, if any such should arise from the said Report.

His Majesty this day took the said Report into Consideration and was pleased with the advice of His privy Council to approve thereof and to order, that the Right hoñble. the Earl of Shelburne, one of His Majesty's principal Secretaries of State do give the necessary directions for carrying into execution what is proposed therein to be done.

SHELBURNE TO CARLETON[1]

Whitehall Dec. 17. 1767.

Governor of Quebec.

Sir,

His Majesty having been pleased to order that I should give the necessary directions for carrying into execution the intentions of an order of His Majesty's Council (which I have already transmitted to you) dated the 28th day of August, 1767,[2] relative to certain supposed defects in the present state of Judicature of the province of Quebec; I am therefore to signify to you His Majesty's pleasure, that you, taking to your Assistance the Chief

[1] Canadian Archives, Q 4, p. 325.
[2] See p. 285.

Justice & Attorney Genl. of Quebec, together with Maurice Morgan[1] Esq[r] the Bearer of this Letter, & advising with such other intelligent & well-instructed persons as you shall judge proper, do make full & accurate enquiry into this matter, so that having obtained complete & authentic information of the present State of Judicature in the Province of Quebec, you may be enabled to give your opinion of any Reform or Amendment that may be thought necessary in the Form of Ordinances to be transmitted here, for the consideration of His Majesty's Privy Council, from which Ordinances, when completed, you are, with the advice and assistance of the Council of Quebec, to form a report[2] for His Majesty's Consideration: and whereas I am directed to nominate a fit & proper person to carry out the necessary Orders for this purpose, who may confer with you and the other persons named, with full confidence upon the general subject of these orders, to the end that, acquainting himself with the reasons & motives upon which any reform shall be proposed, he may upon his return explain to His Majesty's Ministers & Council any difficulties which may arise thereupon; I have accordingly recommended to His Majesty Maurice Morgan Esq[r] as a person every way qualified for this business; and I request you will favour him with your good Offices, Protection, & Assistance in the execution of his Trust, that being furnished with every light that your experience may have acquired, he may, upon his return with your Report, be able to fulfill, as completely as possible, the intention of his appointment.

I am &c
SHELBURNE.

CARLETON TO SHELBURNE[3]

QUEBEC 24[th] Dec[r] 1767.

MY LORD!

To conceive the true State of the People of this Province, so far as the Laws and Administration of Justice are concerned, and the Sensations, they must feel, in their present Situation, 'tis necessary to recollect, they are not a Migration of Britons, who brought with them the Laws of England, but a Populous and long established Colony, reduced by the King's Arms, to submit to His Dominion, on *certain Conditions*: That their Laws and Customs were widely Different from those of England, but founded on natural

[1] The nature of Morgan's mission may be gathered from the paper which precedes. On the date of this letter Shelburne wrote to Morgan, acquainting him with the nature of the steps taken to obtain an adequate report on the administration of law in the Province of Quebec. He refers to the necessity "to send over to Quebec for more convenient dispatch a fit & proper person to carry our instructions for this purpose, and to bring back such Report, and who being properly recommended to the Officers may be enabled to explain such difficulties if such should arise from the said report;" He is informed that he has been selected fo. this mission and that he is to set out immediately for Quebec, and while there, "to acquaint yourself in the fullest manner possible, of everything relative to the general State and condition of Canada." Morgan arrived in Canada Aug. 22nd, 1767; was courteously received, and reported to Shelburne from time to time.

[2] For the draught of this report prepared by the Attorney General, see p. 327.

[3] Canadian Archives, Q 5-1, p. 316.

Justice and Equity, as well as these; That their Honors, Property, and Profits, as well as the King's Dues, in a great Measure Depended upon them, That, on the Mutation of Lands by sale, some special Cases excepted, they established Fines to the King, in Lieu of Quit Rents, and to the Seigneur, Fines and Dues, as his Chief Profits, Obliging him to grant his Lands at very low Rents—

This System of Laws established Subordination, from the first to the lowest, which preserved the internal Harmony, they enjoyed untill our Arrival, and secured Obedience to the Supreme Seat of Government from a very distant Province. All this Arrangement, in one Hour, We overturned, by the Ordinance of the Seventeenth of September One Thousand seven hundred and sixty four, and Laws, ill adapted to the Genius of the Canadians, to the Situation of the Province, and to the Interests of Great Britain, unknown, and unpublished were introduced in their Stead; A Sort of Severity, if I remember right, never before practiced by any Conqueror, even where the People, without Capitulation, submitted to His Will and Discretion.

How far this Change of Laws, which Deprives such Numbers of their Honors, Privileges, Profits, and Property, is conformable to the Capitulation of Montreal, and Treaty of Paris; How far this Ordinance, which affects the Life, Limb, Liberty, and Property of the Subject, is within the Limits of the Power, His Majesty has been pleased to Grant to the Governor and Council; How far this Ordinance, which in a Summary Way, Declares the Supreme Court of Judicature shall Judge all Cases Civil and Criminal by Laws unknown and unpublished to the People, is agreeable to the natural Rights of Mankind, I humbly submit; This much is certain, that it cannot long remain in Force, without a General Confusion and Discontent—

To prevent some of the Misfortunes that must accrue, the inclosed Draft of an Ordinance[1] was prepared, to be laid before the Council, but when I reflected on the many Difficulties, that would still remain, I thought it more advisable, to leave those important Matters, as I found them, till His Majesty's Pleasure was known thereon—

To shew more fully the Extent of these Alterations, several Months ago I directed an Abridgment of the Laws of Canada, in Force on our Arrival, to be drawn up, and at the same Time, desired the Chief Justice and Attorney General to give me their Opinion upon the Mode at present in Practice; This I thought absolutely necessary, to shew the true state of these Matters, Holding it of Great Importance to the King's Service, that all cause of great or general Discontent should be removed and prevented.

A few Disputes have already appeared, where the English Law gives to one, what by the Canadian Law would belong to another; A Case of

[1] See "Draft" which follows this letter.

this Sort, not easy to determine, lies at present in Chancery; if decided for the Canadian, on the Principle, that Promulgation is necessary to give Force to Laws, the Uniformity of the Courts of Justice thereby will be still further destroyed, Chancery reversing the Judgments of the Supreme Court, as that Court reverses those of the Common Pleas; the People notwithstanding continue to regulate their Transactions by their Ancient Laws, tho' unknown and unauthorised in the Supreme Court, where most of these Transactions would be declared Invalid—

So short sighted are Men, that although these few Instances manifest the Difference of the old and new Law, and give some uneasiness to the Parties, yet I have met with only one Canadian, who sees this great Revolution in it's full Influence, but when Time brings forth Events, which shall make known to the Canadians, that their Modes of Inheritance are totally changed, and other Alterations, which affect the Property and Interest of every Family in the Province, the Consternation must become General: The present great and universal Complaint arises from the Delay, and Heavy Expence of Justice; formerly the King's Courts sat once a Week at Quebec, Montreal and Three Rivers; From these lay an Appeal to the Council, which also sat once a Week, where Fees of all Sorts were very low, and the Decisions immediate; At present the Courts sit three Times a Year at Quebec, and twice a Year at Montreal, and have introduced all the Chicanery of Westminster Hall into this impoverished Province, where few Fortunes can bear the Expence and Delay of a Law Suit; The People are thereby deprived of the Benefits of the King's Courts of Justice, which rather prove Oppressive and ruinous than a Relief to the Injured; This, with the Weight of Fees in General, is the daily Complaint, not but a great deal might be said of the Inferior Administrators of Justice, very few of whom have received the Education requisite for their Office, and are not endowed with all the Moderation, Impartiality, and Disinterestedness that were to be wished—

The most advisable Method, in my Opinion, for removing the present, as well as for preventing future Evils, is to repeal that Ordinance,[1] as null and void in it's own nature, and for the present leave the Canadian Laws almost entire; such Alterations might be afterwards made in them, as Time and Occurrences rendered the same advisable, so as to reduce them to that System, His Majesty should think fit, without risking the Dangers of too much Precipitation; or else; such Alterations might be made in the old and those new Laws Judged necessary to be immediately introduced, and publish the whole as a Canadian Code, as was practised by Edward the First after the Conquest of Wales—

For a more expeditious and easy Administration of Justice, a Judge should reside at each of the three Towns of Quebec, Montreal, and Three Rivers, with a Canadian Assistant, to sit at least once a Month; It seems to

[1] The Ordinance of 17th Sept. 1764. See p. 205.

me no less Essential, that none of the Principal Officers of Government and Justice, neither Governor, Judge, Secretary, Provost Martial, or Clerk of the Council should receive Fee, Reward or Present from the People, on Pain of the King's Displeasure, tho' an Equivalent should be allowed them by Way of Salary, and that the inferior Officers be restrained to the Fees authorised under the French Government, in order to remove the present Reproach, that our English Justice, and English Offices are calculated to drain the People of the little Substance they have left, as well as to serve as a Barrier to secure the King's Interests, at this Distance from the Throne, from the pestilential Dangers of Avarice and Corruption, for Ages to come.

What Salaries may be necessary to induce Gentlemen of the Law, of Integrity, and Abilities, with a knowledge of the French Language, to come into this Country, I cannot tell; such Characters however are more indispensably necessary in this, than in any other of the King's Provinces, for here, every Fault and Error of the Man becomes a national Reproach; But Men of the Stamp of our present Chief Justice and Attorney General[1] not being allways to be met with, if unexceptionable Characters, such as above described, cannot be procured, it will be better for the Province, to be satisfied with any Men of sound Sense and Probity, it can afford, who with good Intentions, and the Advice and Assistance of these two Gentlemen, may prove of more Service, than an Ignorant, greedy, or Factious set—

I could almost Venture to promise, that in a little Time, the Provincial Duties may pay all the Officers necessary for Government and the Administration of Justice, on the Footing I propose, of procuring Persons properly Qualified without Fees, together with all necessary extraordinary Expences, (I except however sine cure Salaries, and all public Works,) without giving the least Discontent; The Canadians in General, particularly the Gentlemen, greatly disapprove of the Verdict given last year against the Crown, on the Trial for the Duties, and both Canadian and English Merchants, the Colonists excepted, would have fixed the Rates in the Scheme I enclosed to your Lordship in my Letter[2] (N° 22) higher, than I thought Judicious for the first Essay; These Things I thought proper to mention at present, least the Œconomy, necessary at Home, might be an Objection to the Arrangements essential to the King's Service, and the Interests of Great Britain—

I am with much Respect and Esteem
Your Lordship's
Most Obedient
Humble Servant
GUY CARLETON

The Earl of Shelburne One of
His Majesty's Principal
Secretaries of State—

[1] Wm. Hey and Francis Maseres.

[2] The reference is to Carleton's letter to the Treasury, Dec. 10th, 1767, in which was enclosed a table of proposed duties, expenses, &c. See Canadian Archives Q 5-1, p. 300, for the letter, and pp. 306-315, for the tables.

6-7 EDWARD VII., A. 1907

DRAUGHT OF AN ORDINANCE RELATING TO FRENCH LAND TENURES[1]

An Ordinance for Continuing and Confirming the Laws and Customs that prevailed in this Province in the Time of the French Government concerning the Tenure, Inheritance, and Alienation of Lands.

Whereas from the extensive Words used in the great Ordinance of this Province dated the 17th Day of Sepr in the Year of Our Lord 1764, intitled, *An Ordinance for regulating and establishing the Courts of Judicature, Justices of the Peace, Quarter Sessions, Bailiffs, and other Matters relative to the Distribution of Justice in this Province*, by which the two principal Courts of Judicature erected thereby in this Province are impowered and Directed, the one of them to hear and determine all Criminal and Civil Causes agreable to the Laws of England and to the Ordinances of this Province, and the other to determine Matters of Property above the Value of ten Pounds agreable to Equity, having Regard nevertheless to the Laws of England, and an Appeal is allowed from this latter Court, in Cases wherein the Matter in Contest is of the Value of twenty Pounds, and upwards to the former Court which is strictly injoined to proceed according to the Laws of England and the Ordinances of this Province, as aforesaid, certain Doubts have arisen, and may arise, that in Consequence thereof, the Rules of Inheritance of Lands and Houses in this Province, and the Terms and Conditions of the Tenures thereof, and the Rights, Privileges, Profits and Emoluments thence arising either to the King's Most Excellent Majesty, or to divers of His said Majesty's Subjects that are owners of Lands in the said Province, were in the whole or in Part abolished, and the Laws and Customs of England relating to the said Points at once introduced in their Stead; which great and sudden Alteration of the Laws concerning these important Subjects would not only be in no wise useful to the said Province but by unsettling Mens antient and accustomed Rights and reasonable Expectations Founded thereon, would be attended with innumerable Hardships and Inconveniences to the Inhabitants thereof, and produce a general Confusion. In Order therefore to prevent these Evils, and to quiet the Minds of the Inhabitants with Respect to them, It is Ordained and Declared by the Lieutenant Governor of this Province, by and with the Advice and Consent of the Council of the same, that the Laws and Customs that prevailed in this Province in the Time of the French Government at or immediately before the Time of the Conquest thereof by the Arms of Great Britain concerning the following Points: to Wit, Concerning the Tenures of Lands in this Province, both such as were held immediately of the Crown, and such as were held of Subjects, and the Terms and Conditions of such Tenures; and concerning the Rights, Privileges, and Preeminences annexed to any of the said Tenures, and the Burthens, Duties, and Obligations to which

[1] Canadian Archives, Q 5-1, p. 323.

they were Subject, and Concerning the Inheritance and Succession to the said Lands upon the Death of any of the Proprietors thereof; and Concerning the Forfeiture, Confiscation, Reannexing or reuniting to the Demesne of the Lord, Escheat, Reversion, or other Devolution whatsoever of any of the said Lands, either to the King's Majesty or any of His Majesty's Subjects of whom they are held; and Concerning the Power of Devising, or Bequeathing, any of the said Lands by a last Will and Testament; and Concerning the Power of Alienating the same by the Proprietors thereof in their Life Time; and Concerning the Power of Limiting, Mortgaging, Hypothecating, or any Way incumbering, or affecting, any Lands in the said Province; shall continue in full Force and Vigor untill they are changed in some of these Particulars by Ordinances made for that Purpose and expressly mentioning such Changes and setting forth in a full and distinct Manner the Laws introduced in the stead of those which shall be so changed or abolished, to the End that all the Inhabitants of this Province, Canadians as well as English, may fully understand and be made acquainted with the said new Laws that shall be so introduced, any Laws, Customs, or Usages of England, or any Ordinances of this Province, to the Contrary hereof in any Wise Notwithstanding—

Also the said French Laws and Customs hereby Continued and Confirmed shall be deemed and taken to have continued without Interruption from the Time of the Conquest of this Country by the British Arms to the present Time; any former Ordinance, or Ordinances, of this Province to the contrary thereof in any Wise Notwithstanding.

And further this Ordinance shall extend not only to all Lands in this Province held immediately of the Crown by Grants made by the French King before the Conquest of this Country, and to all Lands held under these immediate of the Crown, who are commonly called *Seigneurs*, by Grants made by the said Seigneurs to inferior Tenants or Vassals, before the said Conquest, but likewise to such Lands as have been granted by the said Seigneurs to the said inferior Tenants since the said Conquest, and likewise to all such Lands as shall be granted hereafter by the said Seigneurs to the said inferior Tenants or Vassals; all which said Grants from the said Seigneurs to the said inferior Tenants, or Vassals, both these that shall hereafter be made, and those that have been made already, shall be subject to the same Rules, Restrictions, and Conditions, as were lawfully in Force Concerning them in the Time of the French Government at, or immediately before, the Time, of the said Conquest of this Province by the British Arms. But this Ordinance shall not extend to, or any Way affect, any new Grants of Land in this Province made by the King's Majesty since the said Conquest, or hereafter to be made by his said Majesty; but the Laws and Rules relating to such Royal Grants shall be the same as if this Ordinance had not been made.

Given by the Hon^{ble} Guy Carleton Lt. Governor and Commander in Chief of the Province of Quebec, Brig^{r} Genl. of His Majesty's Forces &c

&c in Council at the Castle of St. Louis in the City of Quebec on the Day of in the Year of His Majesty's Reign and in the Year of our Lord 176

CARLETON TO SHELBURNE.[1]

QUEBEC 20th Janry 1768

My Lord!

In my Letter[2] (No. 20) I have given the Military state of this Province, with a scheme for strengthening it by a Citadel; I shall now add, that, was this already constructed, and I could suppose it impossible for any foreign Enemy to shake the King's Dominion over the Province, still I shall think the Interests of Great Britain but half advanced, unless the Canadians are inspired with a cordial Attachment, and zeal for the King's Government; How far they are removed from that desirable Disposition, may easily be discovered, if brought to the Test, and examined by the general Cause of the Attachments of Men, Self-Interest; if it shall not be found more their Interest to remain as at present, than to return under the Dominion of their former Sovereign, they certainly have not all those Motives, which induce Men of Honor to disregard the general Rule; there remain, 'tis true, an Oath of Allegiance,which may keep some Quiet in Case of a French Expedition, and the Punishments due to Traitors, which will be regarded, as long as Government has Force sufficient to inflict them; it therefore seems to me highly expedient, that, at least, those Causes of Complaint, which affect the Bulk of the People, and come home almost to every Man, should be removed; That they should be maintained in the quiet Possession of their Property, according to their own Customs, which Time immemorial, has been regarded by them and their Ancestors, as Law and Equity; and that the Approach to Justice and Government, for the Redress of Wrongs, be practicable and Convenient, in Place of being ruinous by Delay, and an Expence disproportioned to their Poverty; but this is neither in the Power of Justice or Government here to grant him, while the Supreme Court is obliged to Judge according to the Laws of England, and the different Offices can claim, as their Right, Fees calculated for much wealthier Provinces.

But, Beside these Points of Justice, as long as the Canadians are deprived of all Places of Trust and Profit, they never can forget, they no longer are under the Dominion of their natural Sovereign; tho' this immediately concerns but few, yet it affects the Minds of all, from a national Spirit, which ever interests itself at the general Exclusion of their Countrymen: three or four of their principal Gentlemen, with the Rank of Counsellors,[3] was it little more than Honorary, tho' on many Occasions they might prove

[1] Canadian Archives, Q 5-1, p. 370.
[2] Carleton to Shelburne, Nov. 25th, 1767. See p. 281.
[3] Carleton recurs to this idea in a letter to Hillsborough the following year. He recommends the addition of five Canadians to the Council and gives a list of twelve persons from whom selection might be made. (See Q. 5, p. 34.)

useful; a few Companies of Canadian Foot judiciously officered, with three or four trifling Employments, in the Civil Department, would make very considerable Alterations on the Minds of the People; It would divide the Canadians at least, and secure a Part, in Case of a French War, that would emulate the zeal of the King's National Troops; It would hold up Hopes to the Gentlemen, that their Children, without being bred up in France, or the French Service, might support their Families in the Service of the King their Master, and by their Employments preserve them from sinking into the lower Class of People, by the Division and Subdivision of Lands every Gen ration.

I have found in Canada, what I believe may be found everywhere, the People fond of the Laws and Form of Government they have been educated under, tho' scarcely a Man that Knows one sound Principle of Government, or Law; Three or four of the old Subjects, about a year ago, brought me the rough Draft of a Petition for a general Assembly, and hoped, I had no Objection to their having it signed by all the British, who wished to have one called; I told them, I had many Objections to great numbers signing a Request of any Kind, that it seldom conveyed the sincere Desire of the Subscribers, that it had an Appearance of an Intention to take away the Freedom of granting or refusing the Request; I had no Objection to Assemblies in General, yet such was the peculiar Situation of Canada, tho' I had turned that Matter often in my Thoughts, I could hit off no Plan that was not liable to many Inconveniencies, and some Danger; That perhaps they might be more fortunate, and I should think myself obliged to them, if they would shew me one, that could be of advantage to the Province, and the King's Service, assuring them, such a Plan wanted no Petitions to recommend it to me: about a Month after, they asked me, if I had considered of their Request, and I repeated my former Answer; since which I have often urged them, of my own Accord, to let me have their scheme for an Assembly, and to inform me, who they thought should be the Electors, and who the Representatives, but to no Purpose; so that I imagined, they had laid aside all Thoughts of the Kind, till lately one John McCord, who wants neither Sense nor Honesty, and formerly kept a small Ale House in the poor Suburbs of a little Country Town in the North of Ireland, appearing zealous for the Presbiterian Faith, and having made a little Money, has gained some Credit among People of his Sort; this Person purchased some Spots of Ground, and procured Grants of more, close to the Barracks, where he run up Sheds, and placed poor People to sell his Spirits to the Soldiers, finding that his lucrative Trade has lately been checked, by inclosing the Barracks to prevent the Soldiers getting drunk all Hours of the Day and Night, He has commenced Patriot, and with the Assistance of the late Attorney General, and three or four more, egged on by Letters from Home, are at work again for an Assembly, and purpose having it signed by all they can influence: On the other Hand the better Sort of Canadians fear nothing more than popular Assemblies, which, they conceive, tend

only to render the People refractory and insolent; Enquiring what they thought of them, they said, they understood some of our Colonies had fallen under the King's Displeasure, owing to the Misconduct of their Assemblies, and that they should think themselves unhappy, if a like Misfortune befell them. It may not be improper here to observe, that the British Form of Government, transplanted into this Continent, never will produce the same Fruits as at Home, chiefly, because it is impossible for the Dignity of the Throne, or Peerage to be represented in the American Forests; Besides, the Governor having little or nothing to give away, can have but little Influence; in Place of that, as it is his Duty to retain all in proper Subordination, and to restrain those Officers, who live by Fees, from running them up to Extortion; these Gentlemen, put into Offices, that require Integrity, Knowledge and Abilities, because they bid the highest Rent to the Patentee, finding themselves checked in their Views of Profit, are disposed to look on the Person, who disappoints them, as their Enemy, and without going so far as to forfeit their Employments, they in general will be shy of granting that Assistance, the King's Service may require, unless they are all equally disinterested or equally Corrupt. It therefore follows, where the executive Power is lodged with a Person of no Influence, but coldly assisted by the rest in Office, and where the two first Branches of the Legislature have neither Influence, nor Dignity, except it be from the extraordinary Characters of the Men, That a popular Assembly, which preserves it's full Vigor, and in a Country where all Men appear nearly upon a Level, must give a strong Bias to Republican Principles; Whether the independent Spirit of a Democracy is well adapted to a subordinate Government of the British Monarchy, or their uncontrolable Notions ought to be encouraged in a Province, so lately Conquered, and Circumstanced as this is, I with great Humility submit to the Superior Wisdom of His Majesty's Councils: for my own part, I shall think myself Fortunate, if I have succeeded in rendering clear Objects, not allways distinctly discernable at so great a Distance

I am with much Respect and Esteem.
Your Lordship's Most Obedient Humble Servant

GUY CARLETON

The Earl of Shelburne One of His Majesty's
Principal Secretaries of State.

Endorsed:—Quebec 20th Janry 1768 Govr Carleton.

SESSIONAL PAPER No. 18

HILLSBOROUGH TO CARLETON.[1]

WHITEHALL, March the 6th 1768.

SIR,

I take the Opportunity of writing to you by the first Ship going directly to Quebec, since my Admission into Office, & also to send you Duplicates of my Four former Letters—

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I come now to the Consideration of your Letters N° 17. 22. & 23.,[2] in which your Prudence and Judgment, your Care of the King's Service, and your Benevolence to His Subjects, are equally conspicuous to His Majesty.

I had the Honor to serve His Majesty at the Board of Trade. in the year 1763. when His Ma'ty was pleased to publish His Royal Proclamation relative to the new Colonies, and, whatever the legal sense conveyed by the words of that Proclamation may be, of which I pretend not to be a Judge, I certainly know what was the Intention of those who drew the Proclamation, having myself been concerned therein; And I can take upon me to averr, that it never entered into Our Idea to overturn the Laws and Customs of Canada, with regard to Property, but that Justice should be administered agreably to them, according to the Modes of administering Justice in the Courts or Judicature in this Kingdom, as is the Case in the County of Kent, and many other parts of England, where Gavel-kind Borough-English and several other particular customs prevail, altho' Justice is administered therein according to the Laws of England.

It was most unfortunate for the Colony of Quebec, that weak, ignorant, and interested Men, were sent over to carry the Proclamation into Execution, who expounded it in the most absurd Manner, oppressive and cruel to the last Degree to the Subjects, and entirely contrary to the Royal Intention. The Distance of the Colony, the Difficulties arising from many Circumstances, unnecessary for me to enumerate, and the Differences of Opinion occasioned by various Causes, have prevented, as yet, the necessary Measures from being taken, to correct this original and fatal Mistake; But I trust I shall soon be impowered to signify His Majesty's Pleasure,

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[1] Canadian Archives, Q 5-1, p. 344.

Wills, Earl of Hillsborough, and of the Kingdom of Ireland, was appointed the first Secretary of State for the Colonies when that Department was created in 1768. His appointment, as recorded in the Warrant Book, vol. 32, is dated 21st Jan. 1768. From Sept. 9th, 1763, he had been one of the Commissioners for Trade and Plantations. See Calendar of Home Office Papers, 1766-69, p. 422.

In this despatch Hillsborough passes in review the various letters which had been received from Carleton since the former came into office, and as several of these relate to religious and trade matters the review of them is omitted here.

[2] Letter No. 17 is that of Nov. 21st, 1767, in which Carleton encloses a petition from British merchants in Canada, stating their objections to the complete enforcement in Canada of the English bankruptcy laws. Agreeing with their position, he has suspended the introduction of such laws for the present. See Q 5-1, p. 245.

No. 22, is a letter of Dec. 10th, with enclosures, in response to a request from the Commissioners of the Treasury for information as to the revenue and expenditure of the Province. See Q 5-1, p. 299.

No. 23, is the letter of Carleton to Shelburne of Dec. 24th, see p. 288.

to you, to carry into Execution, such as will not only relieve His Majesty's new Subjects from the uncertain, and consequently unhappy Situation, they are now in; but give them entire Satisfaction for the future, by securing to them their Property upon a stable Foundation, and rendering the Colony more flourishing and happy than it has ever been.

I have, in the mean Time, His Majesty's Commands, to express His Satisfaction in your prudent conduct relative to the Applications mentioned in your Letter N° 17. to have been made to you for a Commission of Bankruptcy, as it is impossible to conceive, that it could ever be His Majesty's Intention signified, either by the Proclamation, or by the Ordinance for the Establishment of Courts of Judicature, to extend Laws of that particular and municipal Nature to the Colony, even if the Intention had been to have overturned the Customs of Canada, and it would be full as reasonable to make a poor Rate under the 43rd of Elizabeth, or to execute any other Act of Parliament of England, in Quebec, however intended for any local or particular purpose in this Kingdom.

* * * * * *

His Majesty approves of every Sentiment expressed in your Letter N° 23. upon which is founded the Idea of the Ordinance, a Draught of which you transmit with that Letter[1]; The Draught corresponds in almost every part with His Majesty's Opinions; But, as the whole State of the Colony will be immediately taken into Consideration, His Majesty's Pleasure is, that you should, for the present, postpone the enacting of that Ordinance; not doubting but you will, in the mean Time, continue to make use of every lenient and proper Argument, to convince His Majesty's new Subjects of His tender Concern for their Welfare and Security; and, by representing to them the natural Difficulties that must occur, in Regulations of so important a Nature, to be directed from so great a Distance, for the permanent Settlement of a Province, under Circumstances so uncommon and peculiar; prevail upon them to suffer patiently those Delays which are unavoidable.

I desire you will do me the Honor to accept my sincerest Congratulations upon your Appointment to the Government of Quebec.[2] I most truly rejoice at It, both on Account of His Majesty's Service, and the Prosperity and Happiness of His Mat'y's Subjects in that important Colony.

I am &c

HILLSBOROUGH

Lieutenant Governor of Quebec

Endorsed:—Dra[t] to the Lieutenant-Governor of Quebec Whitehall March 6th 1768.

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[1] See p. 292.

[2] After acting as Lieutenant Governor of Quebec from April 1766 till the beginning of 1768, Carleton was appointed to the full position of "Captain General and Governor-in-chief of Quebec in America"—his appointment being dated Jan. 12th, 1768. See Calendar of Home Office Papers, 1766-69, p. 395.

SESSIONAL PAPER No. 18

CARLETON TO SHELBURNE.[1]

QUEBEC 12th April 1768

My Lord!

Again I find myself under a necessity to repeat very near the same apologies, as in my last about the Fees; the Truth is, that while Offices are farmed out to the best bidder, Tenants will make the most of their Leases, and in their Turn hire such Servants, as work at the cheapest Rate, without much Enquiry, whether the same is well or ill done; The inclosed List of Grants,[2] Prior to the Conquest of the Country, has been greatly retarded, from the Persons employed therein, not being thoroughly versed in the Languages, at the same Time, it must be fairly acknowledged, the Ancient Records of the Country, are by no Means so clear and accurate as one could wish, However it will in General tolerably well exhibit, on what Terms, the Seigniorial Grants are held, for as to the Terres en Roture held immediately of the King, in the Towns of Quebec or Trois Rivieres, or else where, the same is not yet Compleated, but is in Hand, and shall be transmitted, without Loss of Time, as soon as finished.

Some of the Privileges contained in those Grants appear at first to Convey dangerous Powers into the Hands of the Seigneurs, that upon a more minute Enquiry, are found to be really little else than Ideal; *the Haute Moyenne et basse Justice*, are Terms of high Import but even under the French Government were so corrected, as to prove of little Signification to the Proprietors, for besides that they could Appoint no Judge without the Approbation of Government, there lay an Appeal from all the Private to the Royal Jurisdictions in every Matter exceeding half a Crown; it could not therefore be productive of Abuse, and as the Keeping of their own Judges became much too Burthensome for the Scanty Incomes of the Canadian Seigneurs, it was grown into so general a Disuse, there were hardly three of them in the whole Province at the Time of the Conquest.

All the Lands here are held of His Majesty's Castle of St. Lewis, and nothing I am persuaded, would be so agreeable to the People, or tend more to securing the Allegiance of the new Subjects to His Majesty, as well as ensuring the Payment of those Fines and Dues, which here stand in the Lieu of Quit Rents, than a formal Requisition of all those immediately holding of the King, to pay Faith and Homage to him at his Castle of St. Lewis; The Oath, which the Vassals take upon the Occasion, is very Solemn and Binding, they are obliged to furnish what they here Term their Aveu et Denombrement, which is an exact Account of their Tenants and Revenues, and to discharge whatever they owe their Sovereign, and to appear in Arms for his Defence, in Case His Province is ever attacked; And at the same Time that it would prove a Confirmation to the People of their Estates and Immunities, after which they most ardently sigh, it

[1] Canadian Archives, Q 5-2, p. 477.
[2] See Canadian Archives, Q 5-2, pp. 560-587.

might be a Means to recall out of the French Service, such as have yet Possessions in this Country, or at least oblige them to dispose of their Effects here, and although it may not be possible, at least for a Time, entirely to prevent that Intercourse, every Measure, that can tend towards putting an End to it, must be Useful.

The Canadian Tenures differ, it is true, from those in the other Parts of His Majesty's American Dominions, but if confirmed, and I cannot see how it well can be avoided, without entirely oversetting the Properties of the People, will ever secure a proper Subordination from this Province to Great Britain; if it's detached Situation be Constantly Remembered, and that on the Canadian Stock we can only depend for an Increase of Population therein, the Policy of Continuing to them their Customs and Usages will be sufficiently Evinced.

For the foregoing Reasons it has occurred to His Majesty's Servants here, that it might prove of Advantage, if, whatever Lands remain Vacant in the Interior Parts of the Province, bordering upon those, where the old Customs prevail, were henceforth granted on the like Conditions, taking care that those at Gaspey and Chaleur Bay, where the King's old Subjects ought chiefly to be encouraged to settle, were granted on such Conditions only, as are required by His Royal Instructions; And, upon this Consideration, have some Grants, in the interior Parts, been deferred Carrying into Execution, untill I could receive the sense of Government thereupon.

Your Lordship may have perceived by some of my former Letters, that long before His Majesty's Order in Council of the 28th August[1] came to my Hands, the Matter therein Recommended had been the Object of my most serious Consideration; the Receipt of that Order has induced me to alter some Part of the Plan I at first Proposed to myself, and have accordingly directed the Abridgement mentioned to Your Lordship in my Letter of 24th December (No. 23)[2] and undertaken by some of the ablest Men in the Province to be further extended, and rendered more full and Copious, and to Comprise all the Laws in Force at the Conquest; in the mean Time, to give Your Lordship, and His Majesty's other Servants, some Idea of the Nature of them, I herewith transmit to Your Lordship a short Sketch, exhibiting only the Heads of those Laws[3]; the several

[1] See p. 285.

[2] See p. 288.

[3] The summary of French laws, here mentioned, follows this despatch under the title, "Coutumes et usages anciens De La Province de Québec." and will be found in Q 5-2 pp. 482-559. The more complete compilation of the French law and constitution, represented as in force in Canada before the Conquest, was prepared, chiefly under the supervision of F. J. Cugnet, and sent to Britain in Sept. 1769. In 1772 several compilations of the French Canadian laws &c. were published; the most important being:—"An Abstract of those parts of the Custom of the Viscounty and Provostship of Paris which were Received and Practised in the Province of Quebec in the time of the French Government. Drawn up by a select Committee of Canadian Gentlemen well skilled in the laws of France and of that Province by the desire of the Hon. Guy Carleton Esq. Governor in Chief of the said Province, London 1772."

"An Abstract of the Several Royal Edicts & Declarations and Provincial regulations and ordinances, that were in force in the Province of Quebec in the time of the French Government; and of the Commissions of the several Governors General and Intendants of the same Province during the same period. By Francis Joseph Cugnet Esq. Secretary to the Governor and Council of the said Province for the French Language. By direction of Guy Carleton 1772."

SESSIONAL PAPER No. 18

Matters Recommended by that Order to the King's Servants here, shall be prepared with all the Dispatch, that the Importance, as well as Extent of the Subject, can possibly admit of.

I am with much Respect and Esteem
Your Lordship's Most Obedient Humble Servant

GUY CARLETON

The Earl of Shelburne One of His Majesty's
Principal Secretaries of State, &c.

INSTRUCTIONS TO GOVERNOR CARLETON, 1768[1]

INSTRUCTIONS to Our Trusty and Well beloved Guy Carleton Esquire, Our Captain General and Governor in Chief in and over Our Province of Quebec in America and of all Our Territories Dependent thereupon Given

First—With these Instructions You will receive Our Commission under Our Great Seal of Great Britain, constituting You Our Captain General and Governor in Chief in and Over Our Province of Quebec in America, bounded on the Labrador Coast by the River S[t] John, and from thence by a Line drawn from the Head of that River through the lake S[t] John to the South End of the Lake Nipisson; from whence the said Line crossing the River S[t] Lawrence and the Lake Champlain in forty-five Degrees of North Latitude, passes along the Highlands which divide the Rivers that Empty themselves into the said River S[t] Lawrence from those which fall into the Sea, and also along the North Coast of the Bay des Chaleurs and the Coast of the Gulph of S[t] Lawrence to Cape Rosieres and from thence crossing the Mouth of the River S[t] Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River S[t] John. You are therefore to take upon you the Execution of the Office and Trust We have reposed in You, and the Administration of Government, and to do and Execute all things in due manner that shall belong to Your Command according to the several powers and Authorities of Our said Commission under Our Great Seal of Great Britain and these Our Instructions to You, or according to such further powers and Instruction as shall at any time hereafter be Granted or appointed You under Our Signet and Sign Manual or by Our Orders in Our Privy Council, and you are to call together at Quebec, which We do appoint to be the place of Your residence, and the principal Seat of Government the following persons whom We do hereby appoint to be Our Council for Our said Province of Quebec, viz[t]. William Hey, Our Chief Justice of Our said Province, Hector Theophilus Cramahé, James Goldfrap, Hugh Finlay, Thomas Mills, Thomas Dunn, Walter Murray, Samuel Holland, Francis Mounier, Benjamin Price, and Colin

[1] Canadian Archives, M. 230, p. 61.

Drumond Esquires—It is nevertheless Our Will and Pleasure, that Our Chief Justice or Chief Justice for the time being shall not be capable of taking upon him the Administration of the Government upon your Death or Absence, or the Death or Absence of the Commander in Chief for our said province for the time being—

2. And You are with all due and usual Solemnity to cause Our said Commission to be read and published at the said meeting of Our Council which being done, You shall then take and also administer to each of the members of Our said Council, the Oaths mentioned in an Act passed in the first year of the Reign of His Majesty King George the first, intitled "An Act for the further Security of His Majestys person and Government, "and the Succession of the Crown, in the Heirs of the late Princess Sophia "being Protestants, and for extinguishing the hopes of the pretended Prince "of Wales and his Open and secret abettors," And in an Act passed in the sixth Year of Our Reign, intitled, "An Act for altering the Oath of Abjura- "tion and the Assurance, and for amending so much of An Act of the seventh "year of Her late Majesty Queen Anne, Intituled, An Act for the Improve- "ment of the Union of the two Kingdoms, as, after the time therein Limitted "requires the Delivery of certain Lists and Copies therein mentioned to "persons Indicted of High Treason or Misprison of Treason;" as also make and Subscribe, and cause them to make and Subscribe, the Declaration mentioned in an Act of Parliament made in the 25th year of the Reign of King Charles the second intituled, "An Act for preventing Dangers which "may happen from Popish Recusants"—And You and every one of them are likewise to take an Oath for the due Execution of Your and their places and Trusts, with regard to Your and their equal and impartial Administration of Justice; And You are also to take the Oath required by An Act passed in the seventh and eighth Years of the Reign of King William the third to be taken by Governors of Plantations to do their Utmost that the Laws relating to the plantations be observed.

3. And that We may be always Informed of the Names and Characters of persons fit to Supply the Vacancies which shall happen in Our said Council, You are to transmit to Us by One of Our principal Secretaries of State the Names and Characters of three persons Inhabitants of Our said province who You shall esteem the best Qualified for that Trust and You are also to Transmit a Duplicate of the said Account to Our Commissioners for Trade and plantations for their Information.

4. And if it shall at any time happen, that by the Death, Departure out of Our said province, suspension of any of Our said Councellors, or otherwise, there shall be a Vacancy in Our said Council, Our Will and Pleasure is that You signify the same to Us, by One of Our principal Secretaries of State, by the first Opportunity, that We may under Our Sign Manual, constitute and appoint others in their Stead; to which end You are whenever such Vacancy happens, to transmit unto Us by One of Our principal Secretaries of State, the Names of three or more persons, Inhabitants of Our said

province whom you shall esteem best Qualified, for such Trust, and you are also to Transmit duplicates of such Accounts to Our Commissioners for Trade and plantations for their Information.

5. But that Our Affairs may not Suffer for want of a due number of Councillors; if ever it shall happen that there be less than Seven residing in Our said province, We do hereby give and grant unto You the said Guy Carleton full power and Authority to chuse as many persons out of the principal Inhabitants of our said province, as will make up the full number of the Council to be seven and no more, which persons so chosen and appointed by You, shall be to all Intents and purposes, Councillors in Our said Province 'till either they shall be confirmed by Us, or, by the Nomination of others by Us under Our sign Manual and Signet, Our said Council shall have seven, or more persons in it.

6. And it is Our Will and Pleasure, that You do, and You are hereby Authorized and Impowered to Suspend and amove any of the Members of Our said Council, from Sitting, Voting, and Assisting therein, if You shall find just Cause for so doing, and to appoint others in their Stead until Our pleasure shall be known, It is nevertheless Our Will and Pleasure, that You do not Suspend or Remove any of the Members of Our Council when they shall have been Confirmed by Us as aforesaid, without good and sufficient cause, nor without the Consent of the Majority of the said Council, signified in Council, after due Examinatiou of the Charge against such Councillor, and his Answer thereunto; and in Case of suspension of any of them, You are to cause Your Reasons for so doing, together with the Charges and proofs against such person, and his Answer thereto be duly entered upon the Council-Books, And forthwith to transmit Copies thereof to Us, by one of Our principal Secretaries of State, and also Duplicates to Our Commissions for Trade and Plantations for their Information nevertheless if it should happen that You should have Reasons for Suspending any of the said Persons, not fit to be communicated to the Council, You may in that Case suspend such person without the Consent of Our said Council; but You are thereupon immediately to send to Us by One of Our principal Secretaries of State An Account of Your proceedings therein; together with Your Reasons at large for such suspension as also your Reasons at large for not communicating the same to the Council and Duplicates thereof by the first opportunity and you are also to transmit a Duplicate of such Account to Our Commissioners for Trade and plantations for their Information.

7. Whereas We are Sensible that Effectual Care ought to be taken to oblige the Members of Our Council to a due attendance therein, in order to prevent the many Inconveniences that happen for the want of a Quorum of the Council to transact business as occasion may require; It is Our Will and Pleasure that if any of the Members of Our said Council shall hereafter absent themselves from the said Province and Continue absent above the Space of Six Months together, without leave from you, or from Our

Commander in Chief of Our said Province for the time being first obtained, under your or his Hand and Seal, or shall remain absent for the Space of One Year without Our Leave given them under Our Royal Signet and Sign Manual their place or places in the said Council shall immediately thereupon become Void: and that if any of the members of Our said Council, then residing in the province under Your government shall hereafter wilfully absent themselves when duly summoned, without a just and lawful Cause and shall persist therein after admonition, you suspend the said Councillors so absenting themselves 'till Our further pleasure be known giving Us timely Notice thereof; And We do hereby Will and Require You that this Our Royal Pleasure be Signified to the several Members of Our Council aforesaid, and entered in the Council-Books of the province under Your Government as a Standing rule—

8. You are forthwith to communicate such and so many of these Our Instructions to Our said Council, wherein their Advice and Consent are mentioned to be requisite, as likewise all such others, from time to time, as You shall find Convenient for Our Service to be Imparted to them—

9. You are to permit the Members of Our said Council to have and Enjoy freedom of Debate and Vote in all Affairs of publick concern that may be debated in Council—

10. And Whereas it is directed by Our Commission to You under Our Great Seal, that as soon as the Situation and Circumstances of Our said Province will admit thereof You shall with the Advice of Our Council, Summon and call a general Assembly of the Freeholders of Our said province, You are therefore as soon as the more pressing Affairs of Government will allow, to give all possible attention to the carrying this Important Object into Execution, but as it may be Impracticable for the present to form such an Establishment You are in the mean time to make such Rules and Regulations by the Advice of our said Council as shall appear to be necessary for the peace Order and good government of our said province; taking Care that nothing be done or passed that shall any way tend to affect the Life Limb or Liberty of the Subject, or to the Imposing any Duties or Taxes; and that all such rules and Regulations be transmitted to Us by the first Opportunity after they are passed and made for our Approbation or Disallowance. And it is Our Will and Pleasure that when An Assembly shall have been Summoned and met in such manner as you in Your discretion shall think most proper, or as shall be hereafter directed and appointed, the following Regulations be carefully observed in the framing and passing all such Laws Statutes and Ordinances, as are to be passed by You with the Advice and Consent of Our said Council and Assembly, Viz^{t}. That the Stile of Enacting the said Laws, Statutes and Ordinances be by the Governor, Council and Assembly and no other—That each different matter be provided for by a different Law without including in one and the same Act, such things as have no proper relation to each other;—That no Clause be inserted in any Act or Ordinance which shall be foreign to

what the title of it Imports and that no perpetual Clause be part of any temporary Law;—That no Law or Ordinance whatever be suspended, altered Continued, revived or repealed by general Words; but that the title and Date of such Law or Ordinance be particularly mentioned in the Enacting part;—That no Law or Ordinance respecting private property be passed without a Clause suspending it's Execution, until Our Royal Will and pleasure is known, nor without a Saving of the Right of Us, Our Heirs and Successors, and of all Bodies Politick and Corporate, and of all other persons except such as are mentioned in the said Law or Ordinance, and those claiming by, from, or under them, and before such Law or Ordinance is passed, proof must be made before You in Council and Entered in the Council-Books, that publick Notification was made of the partys Intention to apply for such Act in the several parish Churches, where the Lands in Question lye for three Sundays at least successively before any such Law or Ordinance shall be proposed; and you are to transmit and Annex to the said Law or Ordinance a Certificate under your Hand that the same passed through all the Forms above mentioned; That in all Laws or Ordinances for the Levying Money, or Imposing Fines, forfeitures or penalties, express mention be made, that the same is granted or reserved to Us Our Heirs and Successors for the publick Uses of the said province, and the Support of the Government thereof, as by the said Law or Ordinance shall be directed; and that a clause be Inserted, declaring that the Money arising by the Operation of the said Law or Ordinance shall be accounted for unto Us in this Kingdom, and to Our Commissioners of the Treasury or Our High Treasurer for the Time being and audited by Our Auditor General of our Plantations or his Deputy—That all such Laws, Statutes and Ordinances be transmitted by You within three Months after their passing or sooner if opportunity offers, to Us, by One of Our principal Secretaries of State and Duplicates thereof to Our Commissioners for Trade and plantations for their Information—That they be fairly abstracted in the Margents and accompanied with very full and particular observations upon each of them (that is to say) whether the same is Introductive of a new Law, Declaratory of a former Law, or does repeal a Law then in being And you are also to transmit in the fullest manner the Reasons and Occasion for Enacting such Laws or Ordinances together with fair Copies of the Journals of the proceedings of the Council and Assembly which You are to require from the Clerks of the said Council and Assembly—

11. And to the End that nothing may be passed or done to the prejudice of the true Interests of this Our Kingdom the Just Rights of Us Our Heirs and Successors or the property of Our Subjects It is Our Express Will and pleasure, That no Law whatsoever which shall in any wise tend to Affect the Commerce or Shipping of this Kingdom, or which shall any ways relate to the Rights and prerogative of Our Crown or the property of Our Subjects or which shall be of an Unusual or Extraordinary Nature be finally ratified or Assented to by You, until You shall have first transmitted unto Us by

one of Our principal Secretaries of State, and to Our Commissioners for Trade and plantations for their Information a Draught of such Law, and shall have received Our Directions thereupon Unless You take Care that a Clause be Inserted therein, suspending and Deferring the Execution thereof until Our pleasure is known concerning the same.—

12 And Whereas Laws have formerly been Enacted in several of Our Plantations in America for so short a time that Our Royal Assent or Refusal thereof could not be had before the time for which such Laws were Enacted did expire, You shall not give Your Assent to any Law that shall be Enacted for a less time than two Years, except in Cases of imminent Necessity, or imminent temporary expediency and You shall not re-enact any Law to which Our Assent shall have been once refused, without Express leave for that purpose first obtained from Us upon a full representation by You to be made to Us by One of Our principal Secretaries, and to Our Commissioners for Trade and Plantations for their Information, of the Reasons and necessity for passing such Law; nor give Your Assent to any Law for repealing any other Law, which shall have passed in Your Government, and shall have received Our Royal Approbation unless You take Care that there be a Clause inserted therein Suspending and Deferring the Execution thereof until Our pleasure shall be known concerning the same.—

13 And We do particularly require you to take care, that fair Books of Accounts of all Receipts and Payments of all publick Money be duly kept, and the truth thereof attested upon Oath and that all such Accounts be audited and attested by Our Auditor General of our plantations or his Deputy, who is to Transmit Copies thereof to Our Commissioners of Our Treasury, or to Our High Treasurer for the time being And that You do every half Year or oftener, send another Copy thereof, Attested by Yourself to Our Commissioners for Trade and plantations, and duplicates thereof by the next Conveyance; in which Books shall be specified, every particular Sum raised or Disposed of together with the Names of the persons to whom any payment shall be made, to the End We may be satisfied of the Right and due application of the Revenue of Our said province with the probability of the Increase or diminution of it under every head and Article thereof

14 And Whereas the Members of several Assemblies in the plantations have frequently Assumed to themselves privileges no ways belonging to them especially of being protected from Suits at Law during the Term they remain of the Assembly to the great prejudice of their Creditors and the Obstruction of Justice; and some Assemblies have presumed to adjourn themselves at pleasure without leave from Our Governor first obtained; and others have taken upon themselves the sole framing of Money Bills, refusing to let the Council Alter or amend the same; all which practices are very detrimental to Our Prerogative. If therefore you find that the Members of Our Province of Quebec Insist upon any of the said Privileges, You

are to signify to them that it is Our Express Will and Pleasure, that You do not allow any protection to any member of the Council or Assembly further than in their persons, and that only during the sitting of the Assembly, and that You do not allow them to adjourn themselves otherwise than de diem, except Sundays and Holidays, without Leave from you or the Commander in Chief for the time being first obtained: It is also Our further pleasure that the Council have the like power of framing Money Bills as the Assembly.—

15 And Whereas by Our aforesaid Commission under Our Great Seal of Great Britain, You are authorized and impowered with the Advice and Consent of Our Council to Constitute and appoint Courts of Judicature and Justice; It is therefore Our Will and Pleasure, that You do as soon as possible apply Your attention to these great and Important Objects and that in forming the necessary Establishments for this purpose, You do consider what has been Established in this respect in Our other Colonies in America more particularly in Our Colony of Nova Scotia—

16 Our Will and Pleasure is, that You or the Commander in Chief for the time being do in all civil Causes, on application being made to You or the Commander in Chief for the time being for that purpose, permit and allow appeals from any of the Courts of Common Law in Our said Province until You or the Commander in Chief, and the Council of the said Province, and You are for that purpose to Issue a Writ in the manner which has been usually accustomed, returnable before Yourself and the Council of the said province, who are to proceed to hear and Determine such Appeal, wherein such of the said Council, as shall be at that Time Judges of the Court from whence such appeal shall be so made to You Our Captain General, or to the Commander in Chief for the time being and to Our said Council as aforesaid shall not be admitted to Vote upon the said Appeal, but they may nevertheless be present at the hearing thereof, to give the Reasons of the Judgment given by them, in the Causes wherein such Appeal shall be made provided nevertheless that in all such appeals the Sum or Value appealed for do exceed the sum of three hundred pounds Sterling, and that Security be first duly given by the Appellant to Answer such Charges as shall be awarded in Case the first Sentence be affirmed; and if either party shall not rest satisfied with the Judgment of You or the Commander in Chief for the time being and Council as aforesaid, Our Will and Pleasure is that they may then appeal unto Us in Our privy Council; Provided the Sum or Value so appealed for unto Us do exceed five hundred pounds Sterling, and that such appeal be made within fourteen Days after Sentence and good security given by the Appellant, that he will Effectually prosecute the same and answer the Condemnation as also pay such Costs and Damages as shall be awarded by Us in Case the sentence of You or the Commander in Chief for the time being and Council be affirmed; provided nevertheless where the matter in Question relates to the taking or Demanding any Duty payable to Us or to any

Fee of Office, or annual Rents or other such like matter or thing where the Rights in future may be bound in all such Cases You are to admit An Appeal to Us in Our privy Council, though the Immediate Sum or Value appealed for be of less Value; And it is Our further Will and Pleasure, that in all places where, by Your Instructions you are to admit Appeals unto Us in Our privy Council, execution be suspended until the final Determination of such Appeal, unless good and sufficient Security be given by the Appellee to make ample Restitution of all that the Appellants shall have lost by means of such Decree or Judgment in Case upon the Determination of such Appeal such Decree or Judgment should be reversed and restitution awarded to the Appellant.

17. You are also to admit Appeals unto Us in Our privy Council in all Cases of Fines Imposed for Misdemeanours provided the Fines so Imposed, Amount to or Exceed One hundred pounds Sterling; the Appellant first giving good Security, that he will Effectually prosecute the same, and answer the Condemnation If the Sentence by which such fine was Imposed in Quebec shall be Confirmed.

18. You are, with the Advice and Consent of Our Council in the Province under Your government to take Especial care to regulate all Sallaries and fees belonging to places, or paid upon Emergencies, that they be within the bounds of Moderation, and that no Exaction be made on any Occasion whatsoever; as also that Tables of all Fees be publickly hung up in all places where such Fees are to be paid and You are to transmit Copies of all such Tables of Fees unto Us by One of Our principal Secretaries of State and duplicates thereof to Our Commissioners for Trade and Plantations for their Information—

19. It is Our Express Will and Pleasure that You do by the first Opportunity and with all convenient Speed transmit unto Us by One of Our principal Secretaries of State and duplicates thereof to Our Commissioners for trade and plantation for their Information Authentick Copies of all Acts Orders Grants Commissions or other powers by Virtue of which any Courts Offices, Jurisdictions, pleas, Authorities, Fees and privileges, have been Settled or Established, for our Confirmation or Disallowance; and in case all or any of them shall at any time or times be disallowed and not approved then such and so many as shall be disallowed and not approved, and so Signified by Us shall cease determine and be no longer continued or put in practice.—

20 You shall not appoint any person to be a judge or Justice of the peace, without the advice and Consent of the Majority of the Members of Our Council, present in, nor shall You Execute yourself or by Deputy and of the said Offices; and it is Our further Will and Pleasure that all Commissions to be Granted by You to any person or persons to be Judges or Justice of the peace, or other necessary officers, be granted during pleasure only—

21. You shall not displace any of the Judges Justices of the peace or other Officers or Ministers without good and sufficient Cause, which You shall

Signify in the fullest and most Distinct manner to Us by one of our principal Secretaries of State and to Our Commissioners for Trade and Plantations for their Information—

22. And Whereas frequent Complaints have heretofore been made of Great Delays and undue proceedings in the Courts of Justice in several of Our plantations, whereby many of Our Good Subjects have very much Suffered, And it being of the greatest Importance to Our Service and to the Welfare of Our Plantations that Justice be every where speedily and Duly administered, and that all Disorders Delays and other undue practices, in the administration thereof be Effectually prevented; We do particularly require You to take Especial Care, that in all Courts, where you are Authorized to preside, Justice be Impartially administered, and that in all other Courts, established within Our said Province all Judges and other persons therein concerned do likewise perform their several Duties without any Delay or partiality.

23. You are to take Care, that all Writs be issued in Our Name throughout the Province under Your Government.

24. Whereas there are several Offices in Our plantations Granted under the Great Seal of Great Britain, and Our Service may be very much prejudiced by reason of the absence of the Patentees, and by their appointing Deputies not fit to officiate in their Stead, You are therefore to Inspect such of the said Offices as are in the province under Your Government, and to Enquire into the Capacity and behaviour of the persons exercising them, and to report thereupon to Us by One of Our principal Secretaries of State and to Our Commissioners for Trade and Plantations what You think fit to be done or Altered in Relation thereunto; and You are upon the misbehaviour of any of the said Patentees or their Deputies to Suspend them from the Execution of their Office 'till You shall have represented the the whole matter unto Us as aforesaid and received our Directions therein And in Case of the Death of any such Deputy, It is Our Express Will and pleasure, that you take Care, that the person appointed to Execute the place until the patentee can be Informed thereof and appoint another Deputy, do give sufficient Security to the patentee, or, in Case of Suspension to the person Suspended to be answerable to him for the profits accruing during such Interval by death or during Suspension, in Case We shall think fit to restore the person Suspended to his place again—It is nevertheless Our Will and pleasure that the person Executing the place during such Interval, by Death or Suspension shall for his Encouragement receive the same Profits as the person suspended or dead did receive; And it is Our further Will and Pleasure, that, in Case of a Suspension of a patentee, the person appointed by You to Execute the office during such Suspension shall receive a Moiety of the profits which would otherwise become due to such patentee, giving Security to such patentee to be answerable to him for the other Moiety, in Case We shall think fit to restore him to his Office again. And it is Our further Will and pleasure, that You do countenance and give

all due Encouragement to all Our Patent Officers in the Enjoyment of their legal and Accustomed Fees, Rights privileges and Emoluments according to the true Intent and meaning of their patents—

25. You shall not by Colour of any power or Authority hereby or other wise Granted or mentioned to be Granted unto You, take upon You to give, grant or Dispose of any office or place within Our said Province which now is or shall be Granted under the Great Seal of this Kingdom, or to which any person is or shall be appointed by Warrant under Our Signet and Sign Manual, any further than that You may, upon the Vacancy of any such Office or place, or upon the Suspension of any such Officer by you, as aforesaid put in any fit person to Officiate in the Interval 'till You shall have represented the matter unto Us by one of our principal Secretaries of State; and to Our Commissioners for Trade and Plantations, for their Information as aforesaid, which You are to do by the first Opportunity, and 'till the said Office or place be disposed of by Us Our Heirs or Successors under the Great Seal of this Kingdom, or until some person shall be appointed thereto by Warrant under Our Signet and Sign Manual or Our further Directions be given therein—

26. And Whereas several Complaints have been made by the Officers of Our Customs in Our plantations in America, that they have frequently been obliged to serve as Jurors, and personally to Appear in Arms whenever the Militia is drawn Out and thereby are much hindred in the Execution of their Employments, Our Will and Pleasure is that You take Effectual Care and give the necessary Directions that the several officers of Our Customs be Excused and exempted from serving on any Juries, or personally appearing in Arms in the Militia, unless in Cases of absolute Necessity or serving any parochial Offices which may hinder them in the Execution of their Duty—

27. And Whereas We have Stipulated by the late Definitive Treaty of Peace concluded at Paris the 10th Day of February 1763 to Grant the Liberty of the Catholick Religion to the Inhabitants of Canada, and that We will consequently give the most precise, and most Effectual Orders, that Our New Roman Catholick Subjects in that Province may profess the Worship of their Religion according to the Rites of the Romish Church, as far as the Laws of Great Britain permit; It is therefore Our Will and Pleasure that You do in all things regarding the said Inhabitants Conform with Great Exactness to the Stipulations of the said Treaty in this respect—

28. You are as soon as possible to Summon the Inhabitants to meet together at such time or times, place or places, as You shall find Convenient in Order to take the Oath of Allegiance, and make and Subscribe the Declaration of Abjuration mentioned in the aforesaid Act passed in the first Year of the Reign of King George the 1st for the further Security of His Majestys person and Government, and the Sucession of the Crown in the Heirs of the late Princess Sophia, being Protestants, and for Extinguishing the Hopes of the pretended Prince of Wales and his Open and Secret Abettors, and in

the aforesaid Act passed in the Sixth Year of Our Reign for Altering the Oath of Abjuration and the Assurance and for amending so much of An Act of the seventh Year of her late Majesty Queen Anne Intitled An Act for the Improvement of the Union of the two Kingdoms as after the time therein Limitted requires the Delivery of certain Lists and Copies therein mentioned to persons Indicted of High Treason, or Misprison of Treason; which Oath shall be Administered to them by such person or persons as You shall Commissionate for that purpose, and in Case any of the said French Inhabitants shall refuse to take the said Oath and make and Subscribe the Declaration of Abjuration as aforesaid, You are to cause them forthwith to Depart out of Our said Government—

29. And it is Our further Will and Pleasure that all such Inhabitants professing the Religion of the Romish Church, do at all meetings, or at such other time or times You shall think proper and in the manner you shall think least alarming and Inconvenient to the said Inhabitants Deliver in upon Oath an Exact Account of all Arms and Ammunition of every sort in their Actual possession, and so from time to time, of what they shall receive into their Possession as aforesaid—

30. You are as soon as possible to Transmit to Us by one of Our principal Secretaries of State, and to Our Commissioners for Trade and plantations for their Information, an Exact and particular Account of the Nature and Constitution of the several Religious Communities of the Romish Church, their Rights Claims privileges and property, and also the Number Situation and Revenues of the several Churches heretofore established in Our said province together with the Number of Priests or Curates Officiating in such Churches—

31. You are not to Admit of any Ecclesiastical Jurisdiction of the See of Rome, or any other foreign Ecclesiastical Jurisdiction whatever in the province under Your Government—

32. And to the End that the Church of England may be Established both in principles and practice, and that the said Inhabitants may by Degrees be Induced to Embrace the Protestant Religion, and that their Children be brought up in the principles of it We do hereby declare it to be Our Intention, when the said Province shall have been accurately Surveyed and Divided in Townships, Districts precincts or parishes in such manner as shall be herein after directed, all possible Encouragement shall be given to the Erecting protestant Schools in the said Districts Townships and precincts by Settling appointing and Allotting proper Quantities of Land for that purpose; and also for a Glebe and maintenance for a Protestant Minister and protestant School Masters; and You are to Consider and to Report to Us by one of Our principal Secretaries of State and to Our Commissioners for Trade and Plantations for their Information, by what other means the Protestant Religion may be promoted, established, and Encouraged in Our said province under Your Government.

33. And You are to take especial Care that God Almighty be devoutly and duly served throughout Your Government; the Book of Common Prayer as by Law Established read each Sunday and Holiday; and the blessed Sacrament administered according to the Rites of the Church of England—

34. You are not to prefer any Protestant Minister to any Ecclesiastical Benefice in the Province under your Government without a Certificate from the Right Reverend Father in God the Lord Bishop of London, of his being Conformable to the Doctrine and Discipline of the Church of England, and of good Life and Conversation—And if any person hereafter preferred to a Benefice shall appear to You to give Scandal either by his Doctrine and manners You are to use the best means for his Removal.—

35. You are to give Orders forthwith that every Orthodox Minister within Your Government be one of the Vestry in his respective parish, and that no Vestry be held without him, except in Case of Sickness or after Notice of a Vestry Summoned he omit to come—

36. And to the End that the Ecclesiastical Jurisdiction of the Lord Bishop of London may take place in Our Province under your Government as far as conveniently may be, We do think fit that You give all Countenance and Encouragement to the Exercise of the same, excepting only the collating to Benefices, granting Licences for Marriage and probates of Wills which We have reserved to You our Governor and to the Commander in Chief of Our said province for the time being—

37. And We do further Direct that no Schoolmaster who shall arrive in Our said Province from this Kingdom, be henceforward permitted to keep School, without the Licence of the said Lord Bishop of London, and that no other person now there or that shall come from other parts shall be admitted to keep School in Your Government without Your Licence first obtained.

38. And You are to take Especial Care, that a Table of Marriages, established by the Cannons of the Church of England be hung up in all places of Publick Worship according to the Rites of the Church of England.

39. And it is Our further Will and Pleasure, that in Order to Suppress as much as in You lies, every Species of Vice and Immorality, You forthwith do cause all Laws already made against Blasphemy, Prophaneness, Adultry, Fornication, Polygamy, Incest, profanation of the Lords Day, Swearing and Drunkenness to be rigorously put in Execution in every part of Your Government, and that You take due care for the punishment of these, and every other Vice and Immorality by presentment upon Oath, to be made to the Temporal Courts by the Church Wardens of the several parishes, at proper times of the Year to be appointed for that Purpose; and for the further Discouragement of Vice, and Encouragement of Virtue and good living (that by such Examples the Infidels may be Invited and persuaded to Embrace the Christian Religion.) You are not to admit any persons to publick Trusts and Employments in the Province under Your Government whose ill Fame and Conversation may Occasion Scandal—

40. And it is Our further Will and Pleasure, that all and every the French Inhabitants in Our said Province who are now possessed of Lands within the said Province in Virtue of Grants or Concessions made before the Signing of the preliminary Articles of Peace on the 3rd Day of Novr, 1762, within such Limitted time as You in Your Discretion shall think fit, Register the several Grants or other Deeds, or Titles, by which they hold or Claim such Lands, in the Secretarys Office which said Grants, Deeds or other Titles, shall be Entered at large in the said Office, so that the particular Quantity of Land, it's Scite and Extent, the Conditions upon which it is Granted, either as to Rents, Services, or Cultivation, may appear fully and at length—

41. And in Case it shall Appear, upon a Strict and Accurate Examination of the said Grants and Title Deeds, to be taken in such manner as You shall think proper, that any of the Grantees or Persons claiming Lands under such Grants and Title Deeds, are in Possession of more Land than is contained within such Grants or other Concessions, or that the Terms and Conditions upon which the Lands were Granted have not been complied with agreable to what is Stipulated in such Grants or Concessions, It is Our Will and Pleasure, that You forthwith represent the same to Us, by One of Our principal Secretaries of State to the End You may receive such Directions thereupon as the nature and circumstances of the Case shall appear to require, and You are to send a Duplicate of such Representation to Our Commissioners for Trade and plantations for their Information—

42. And Whereas it is necessary in Order to the advantageous and Effectual Settlement of Our said Province, that the true State of it should be fully known; You are therefore as soon as conveniently may be, to cause an Accurate Survey to be made of the said Province, by such Able and Skilful person as is or shall be appointed for that Service, who is to Report to You in Writing for Your Judgment in the measures which You may in General pursue for the making of Settlements, not only the Nature and Quality of the Soil and Climate, the Rivers Bays and Harbours, and every other Circumstance attending the Natural State of it; but also his opinion in what manner it may be most conveniently laid out into Counties, and to annex to his Report a Map of such Survey, with the several Divisions proposed marked upon it, But as the making such Survey, with the several Divisions proposed will be a Work of Great Length, You are in the mean time to carry on Settlements upon that plan, which shall appear to you to be most Expedient from the best Information You can collect—

43. And Whereas it has been found by Experience, that the Settling Planters in Townships hath very much redounded to their Advantage, not only with respect to the Assistance they have been able to Afford each other in their Civil Concerns, but likewise with regard to the Security they have thereby acquired against the Insults and Incursions of neighbouring Indians or other Enemies; You are therefore to lay out Townships of a Convenient Size and Extent in such places as You in Your Discretion shall Judge most

proper; And it is Our Will and Pleasure that each Township do consist of about twenty thousand Acres, having as far as may be natural Boundaries, extending up into the Country, and comprehending a necessary part of the River S^{t} Lawrence where it can be conveniently had—

44. You are also to cause a proper place in the most convenient part of each Township to be marked out for building a Fort sufficient to contain such a Number of Families as You shall judge proper to Settle there, with Town and Pasture Lots convenient to each Tenement, taking Care that the said Town be laid out upon, or as near as conveniently may be to some Navigable River or the Sea Coast, and You are also to reserve to Us proper Quantities of Land in each Township for the following purposes, Viz^{t} For Erecting Fortifications and Barracks where necessary or for other Military or Naval Services, and more particularly for the Growth and Produce of Naval Timber, if there are any Wood Lands fit for that purpose—

45. And it is Our further Will and Pleasure that a particular Spot in or as near each Town as possible be set apart for the Building a Church, and four hundred Acres adjacent thereto, allotted for the Maintenance of a Minister and two hundred Acres for a Schoolmaster.

46. And You are to give Strict Orders to the Surveyors whom You shall Employ to mark out the said Townships and Towns, to make returns to you of their Surveys as soon as possible with a particular Description of each Township, and the Nature of the Soil within the same.

47. And You are to oblige all such persons, as shall be appointed to be Surveyors of the said Lands in each Township, to take an Oath for the due performance of their Offices and for obliging them to make exact Surveys of all Lands required to be set out—

48 And Whereas nothing can more effectually tend to the Speedy settling our said Colony, the Security of the property of Our Subjects and the advancement of Our Revenue than the disposing of such Lands as are our property upon Reasonable Terms, and the establishing a regular and proper method of proceeding with respect to the passing of Grants of such Land; It is therefore Our Will and Pleasure that all and every person and persons who shall apply to you for any Grant or Grants of Land shall previous to their obtaining the same make it appear before You in Council, that they are in a Condition to Cultivate and Improve the same by settling thereon in proportion to the Quantity of Acres desired, a sufficient Number of white persons and Negroes; and in Case You shall upon a Consideration of the Circumstances of the person or persons applying for such Grants, think it adviseable to pass the same, in such Case You are to cause a Warrant to be drawn up, directed to the Surveyor General or other proper Officers, empowering him or them to make a faithful and Exact Survey of the Lands so petitioned for, and to return the said Warrant within six Months at furthest from the Date thereof, with a plot or Description of the Lands so Surveyed thereunto annexed, provided that You do take Care, that before any such Warrant is Issued as aforesaid, a Docquet thereof be

entered in the Auditors and Registers Office, and when the Warrant shall be returned by the said Surveyor or other proper Officer, the Grant shall be made out in due form, and the Terms and Conditions required by these Our Instructions be particularly and Expressly mentioned in the respective Grants: And it is Our Will and pleasure, that the said Grants shall be registered within Six Months from the Date thereof in the Registers Office there, and Docquet thereof be also entered in Our Auditors Office there, in case such Establishment shall take place in Our said Province, or that in Default thereof such Grant shall be Void, Copies of all which Entries shall be returned regularly by the proper Officer to Our Commission of Our Treasury and to Our Commissioners for Trade and plantations within six Months from Date thereof.

49. And Whereas great Inconveniences have arisen in many of Our Colonys in America from the granting excessive Quantities of Land to particular persons who have never cultivated or Settled it, and have thereby Prevented others more Industrious from Improving the same; in Order therefore to prevent the like Inconveniences for the future, You are to take especial Care, that in all Grants to be made by You, by and with the Advice and Consent of Our Council, to persons applying for the same, the Quantity be in proportion to their Ability to Cultivate: And You are hereby directed to observe the following Directions and Regulations in all Grants to be made by You Viz:

That One hundred Acres of Land be granted to every person being Master or Mistress of a Family for himself or herself and fifty Acres for every White or Black Man Woman or Child of which such persons Family shall consist, at the Actual time of making the Grant, and in Case any Person applying to You for Grants of Land shall be desirous of taking up a larger Quantity than the Actual Number of Persons in his or her Family would Intitle such persons to take up, It is Our Will and Pleasure and You are hereby allowed and permitted to grant unto every such person or persons such further Quantity of Land as they may desire, not exceeding one thousand Acres over and above what they are entitled to, by the number of persons in their respective Families, provided it shall appear to you that they are in a Conditon and Intention to Cultivate the same; and provided also that they do pay to the Receiver of Our Quit rents or to such other Officer as shall be appointed to receive the same the Sum of five Shillings only for every fifty Acres so Granted on the Day of the Date of the Grant.—

That all Grantees be Subject to the payment of two Shillings Sterling for every hundred Acres to commence at the expiration of two Years from the Date of such Grant and to be paid Yearly and every Year, or in Default of such payment the Grant to be void—

That every Grantee upon giving proof that he or she has fulfilled the Terms and Conditions of his or her Grant, shall be Entitled to another Grant in the proportion and upon the Conditions above mentioned.—

That for every fifty Acres of Land accounted plantable each patentee shall be Obliged within three Years after the Date of his patent to clear and Work three Acres at the least in that part of his Tract which he shall Judge most Convenient and Advantageous, or else to clear and drain three Acres of Swampy or sunken Grounds or drain three Acres of Marsh if any such be within the Bounds of His Grant—

That for every fifty Acres of Land accounted Barren every patentee shall be obliged to put and keep on his Land within three years after the Date of his Grant three neat Cattle which number shall be obliged to continue on his Land until three Acres for every fifty be fully cleared and Improved

That if any person shall take up a tract of Land wherein there shall be no part fit for present Cultivation without manuring and improving the same every such Grantee shall be obliged within three years from the Date of his Grant, to Erect on some part of his Land one Good Dwelling House to contain at least twenty feet in length and Sixteen Feet in Breadth and also to put on his Land the like Number of three neat Cattle for every fifty Acres—

That if any person who shall take up any Stony or Rocky Grounds not for planting or pasture shall, within three years after the passing of his Grant begin to Employ thereon, and so continue to work for three years then next ensuing in Digging any Stone Quarry or other Mine one good able Hand for every hundred Acres of such Tract, it shall be accounted a sufficient Cultivation and Improvement.

That every three Acres which shall be Cleared and Worked as aforesaid, and every three Acres which shall be Cleared and Drained as aforesaid, shall be accounted a sufficient Seating, plantation, Cultivation and Improvement to save for ever from Forfeiture fifty Acres of Land in any part of the Tract contained within the same patent; and the patentee shall be at Liberty to withdraw his Stock, or to forbear working in any Quarry or mine, in proportion to such Cultivation and Improvement, as shall be made upon the Swamps, sunken Grounds and Marshes which shall be Included in the same patent—

That when any person who shall hereafter take up and patent any Lands, shall have seated planted and Cultivated, or Improved the said Land or any part of it according to the Directions and Conditions above mentioned such patentee may make proof of such Seating planting Cultivation and Improvement in the General Court, or in the Court of the County, District or precinct where such Lands shall lie, and have such proof certified to the Registers Office and there entered with the Record of the said patent, a Copy of which shall be admitted on any Trial to prove the Seating and planting of such Land.

And Lastly to ascertain the true Quantity of Plantable and Barren Land contained in each Grant hereafter to be made within Our said province You are to take especial Care that in all Surveys hereafter to be made

every Surveyor be required and enjoyned to take particular Notice according to the best of his Judgment and understanding how much of the Land so Surveyed is plantable and how much of it is Barren and unfit for Cultivation, and accordingly to Insert in the Survey and plot to him to be returned into the Registers Office the true Quantity of each kind of Land.

50. And Whereas it hath been represented to Us that the Governors of several of Our Colonies in America have Granted Lands away close to the Forts belonging to Us by which means the Garrisons of such Forts have been obliged to pay the proprietors of those Lands extravagant prices for Wood cut for a necessary supply of Fuel, and thereby a great and Unreasonable Expense has been brought upon the Military Contingencies It is Our Express Will and Pleasure that You do take Especial Care, that in all Warrants for Surveying of Lands adjacent or Contiguous to a Fort or Fortification, whether such Warrant be Granted upon an Original Petition to you in Council, or upon Our Order in Our privy Council there be an Express Direction to the Surveyor that he do reserve to Us Our Heirs and Successors for the Use of the Fort, near to which the Lands shall lye such a part of the Land petitioned for (being Woodland) and in such a situation as the Commander in Chief of the said Fort (with whom he is to be required to Consult and Advise in all such Cases) shall Judge Convenient and sufficient for a permanent and Certain Supply of Fuel for such a Garrison as the said Fort may be able to Contain. And it is Our further pleasure, that a regular plot of such reserved Land, describing the Bounds, expressing the Quantity of Acres, and properly signed and attested by such Surveyor, be delivered to the Commanding Officer of each Fort, to be there publickly hung up and a Duplicate thereof also Recorded in the Secretary's Office or other proper Office of Record in Our province under Your Government; and as we judge the due Execution of this Our Order to be essential to Our Service, You are hereby required to take Care, that the Regulations above prescribed be duly entered upon the Council Books of Our said Province, as a standing Order to all persons, who may be Intrusted with the powers to which they referr—

51. And it is Our further Will and Pleasure that in all Grants of Lands to be made by You as aforesaid, regard be had to the profitable and unprofitable Acres so that each Grantee may have a proportionable Number of One Sort and the other; as likewise that the Breadth of each Tract of Land to be hereafter Granted be one third of the Length of such Tract, and that the Length of each Tract do not Extend along the Banks of any River but into the Main Land that thereby the said Grantees may have each a Convenient Share of what accommodation the said River may Afford for Navigation or otherwise—

52. And Whereas it hath been represented to Us, that many Parts of the Province under your Government are particularly adapted to the Growth and Culture of Hemp and Flax, It is therefore Our Will and pleasure that in all Surveys of Land for Settlement, the Surveyor be directed to

Report whether there is any or what Quantity of Lands contained within such Survey, fit for the production of Hemp and Flax and you are to take particular Care to insert a Clause in every Grant of Land where any part thereof is fit for such production, obliging the Grantee annually to sow a proportionable part of his Grant with Hemp or Flax Seed—

53. And Whereas it hath been further represented to Us that a great part of the Country in the Neighbourhood of Lake Champlain, and between that Lake and the River S^{t} Lawrence, abounds with Woods, producing Trees fit for masting for Our Royal Navy, and other Useful and necessary Timber for naval Construction; You are therefore expressly directed and required to cause such parts of the said Country or any other within Your Government, that shall appear upon a Survey to abound with such Trees and shall lye convenient for Water Carriage, to be reserved to Us, and to Use Your best Endeavour to prevent any Waste being Committed upon the said Tracts by punishing in due Course of Law any persons who shall Cut Down or Destroy any Trees growing thereon, and You are to Consider and advise with Our Council, whether some Regulation that shall prevent any Saw Mills whatever from being Erected within your Government without a Licence from you or the Commander in Chief of Our said Province for the time being, may not be a means of preventing all Waste and Destruction in such Tracts of Land as shall be reserved to Us for the purposes aforesaid—

54. And Whereas it appears from the Representations of Our late Governor of the District of Trois Rivieres that the Iron Works at S^{t} Maurice in that District are of great Consequence to Our Service; It is therefore Our Will and Pleasure that no part of the Lands, upon which the said Iron Works were carried on, or from which the Ore Used in such Works was procured, which shall appear to be necessary and Convenient for that Establishment, either in respect to a free passage to the River S^{t} Lawrence, or for producing a necessary Supply of Wood, Corn and Hay, or for pasture for Cattle, be Granted to any private person whatever, and also that as large a District of Land, as conveniently may be adjacent to and lying round the said Iron Works, over and above what may be necessary for the above purposes be reserved for Our Use to be disposed of in such manner as We shall hereafter direct and appoint—

55. And Whereas it is necessary that all Persons who may be desirous of Settling in Our said province, should be fully Informed of the Terms and Conditions upon which Lands will be granted in Our province, You are therefore as soon as possible to cause a publication to be made by proclamation or otherwise as you in Your Discretion shall think most adviseable of all and every the aforegoing Terms, Conditions and Regulations of every kind respecting the Grants of Lands, in which proclamation it may be Expedient to add some short Description of the natural Advantages of the Soil and Climate, and its peculiar Advantages for Trade and Navigation;

and you are to take such Steps as You shall think proper for the publishing such proclamation in all the Colonies in North America—

56. And it is Our further Will and Pleasure that all the foregoing Instructions to You as well as any which You may hereafter receive relative to the form and method of passing Grants of Lands, and the Terms and Conditions to be annexed to such Grants be entered upon Record with the Grants themselves for the Information and Satisfaction of all parties whatever that may be concerned therein.

57. And it is Our further Will and Pleasure that You do consider of a proper and Effectual Method of Collecting receiving and accounting for Our Quit Rents whereby all Frauds Concealment Irregularity or Neglect therein may be prevented and whereby the Receipt thereof may be Effectually chequed and Controlled, and if it shall appear necessary to pass An Act for the more effectually ascertaining and the more speedily and regularly collecting Our Quit Rents, You are to prepare the Heads of such a Bill, as you shall think may most Effectually conduce to the procuring the good Ends proposed, and to Transmit the same to Us by one of Our principal Secretaries of State, for Our further Directions therein, and You are also to Transmit a Duplicate thereof to Our Commissioners for Trade and plantations for their Information—

58. And it is Our further Will and Pleasure that the Surveyor General or such other person or persons as you shall think proper to Appoint, do, once in every Year or oftener, as Occasion shall require, inspect the State of all Grants of Land made by you, and make Report thereof to You in Writing, Specifying whether the Conditions therein contained have or have not been complied with, or what Progress has been made towards fulfilling the same; and you are annually to transmit Copies of such Reports to Us by One of Our principal Secretaries of State, and Duplicates thereof to Our Commissioners for Trade and Plantations for their Information—

59. And Whereas Our Province of Quebec is in part Inhabited and Possessed by several Nations and Tribes of Indians, with whom it is both necessary and Expedient to cultivate and maintain a Strict Friendship and good Correspondence, so that they may be Induced by Degrees not only to be good Neighbours to Our Subjects, but likewise to be good Subjects to Us, You are therefore as soon as You conveniently can, to appoint a proper person or persons to Assemble and treat with the said Indians, promising and Assuring them of Protection and Friendship on our part and delivering them such presents as shall be sent to You for that purpose—

60. And You are to Inform yourself with the greatest Exactness of the Number, Nature and Disposition of the several Bodies or Tribes of Indians, of the manner of their Lives, and the Rules and Constitutions by which they are governed and regulated, and You are upon no Account to molest or disturb them in the possession of the said province as they at present Occupy, or Possess, but to Use the best means You can for Conciliating

their Affections and Uniting them to Our Government, reporting to Us, by One of Our principal Secretaries of State, and to Our Commissioners for Trade and Plantations whatever Information You can collect with respect to these people, and the whole of Your proceedings with them.—

61. Whereas We have by Our proclamation dated the 7th Day of October in the 3d Year of Our Reign, strictly forbid, on pain of Displeasure, all our Subjects from making any purchases or Settlements whatever, or taking possession of any of the Lands reserved to the several Nations of Indians, with whom we are connected, and who live under our protection without our especial leave for that purpose first obtained It is Our Express Will and Pleasure that you take the most Effectual Care, that Our Royal Directions herein be punctually complied with, and that the Trade with such of the said Indians as depend upon Your Government be carried on in the manner and under the Regulations prescribed in Our said proclamation—

62. You are to use Your best Endeavours in Improving the Trade of those parts by settling such Orders and Regulations therein, with the Advice of our said Council as may be most acceptable to the Generality of the Inhabitants. And it is Our Express Will and Pleasure, that You do not upon any pretence Whatever, upon pain of Our Highest Displeasure, give Your Assent to any Law or Laws for setting up any Manufactures and carrying on any Trades which are hurtful and prejudicial to this Kingdom, and that You do Use Your Utmost Endeavours to discourage, discountenance and restrain any Attempts which may be made to set up such Manufactures or establish any such Trades—

63. And it is Our Will and Pleasure, that You do not dispose of any Forfeitures or Escheats to any Person, until the Sheriff or other proper Officer have made Enquiry by a Jury upon their Oaths, into the true Value thereof, nor until You have transmitted to Our Commissioners of Our Treasury a particular Account of such Forfeitures and Escheats, and the Value thereof. And You are also to take Care that the produce of such Forfeitures and Escheats, in Case We think proper to give You Directions to dispose of the same, be duly paid to Our Treasurer or Receiver General of Our said province, and a full Account transmitted to Our Commissioners of Our Treasury, or Our High High Treasurer for the Time being with the Names of the persons to whom disposed.

64. And Whereas Commissions have been Granted unto several persons in Our Respective Plantations in America for the Trying of pirates in those parts pursuant to the Acts for the more Effectual Suppression of Piracy. And by a Commission already sent to Our province of New York Our Governor there is Impowered together with others therein mentioned to proceed accordingly in Referrence to Our said Province; Our Will and pleasure is that you do Use Your best Endeavours to apprehend all persons whatever who may have been guilty of Piracy within Your Government or who having Committed such Crimes at other places

may come within your Jurisdiction; and until we shall think proper to direct the like Commission to be Established for Our Government of Quebec, You are to send such pirates with what proofs of their Guilt You can procure or Collect, to Our Governor of New York to be tryed and punished under the Authority of the Commission established for those parts—

65. And Whereas You will Receive from our Commissioners for Executing the Office of High Admiral of Great Britain, and of Our Plantations, a Commission constituting You Vice Admiral of Our said Province, You are hereby required and Directed Carefully to put in Execution the several powers thereby Granted you—

66. Whereas great Inconveniences have happened heretofore by Merchant Ships and other Vessels in the Plantations, wearing the Colours born by Our Ships of War under pretence of Commissions granted to them by the Governors of the said plantations, and by trading under those Colours not only amongst Our Own Subjects, but also those of other princes and States, and committing divers Irregularities, they may very much dishonor Our Service; For preventing thereof You are to oblige the Commanders of all such Ships, to which You shall grant Commissions, to wear no other Colours than such as are described in an Order of Council of the 7th of January 1730 in relation to Colours to be Worne by all Ships and Vessels, Except Our Ships of War.

67. And Whereas there have been some great Irregularities in the manner of Granting Commissions in the plantations to private Ships of War, You are to govern yourself, whenever there shall be Occasion according to the Commission and Instructions granted in this Kingdom but You are not to grant Commissions of Marque or Reprisal against any prince or State or their Subjects in Amity with Us to any person whatsoever without Our Especial Command.

68. Whereas We have been Informed that during the time of War Our Enemys have frequently got Intelligence of the State of our plantations by Letters from private persons to their Correspondence in Great Britain, taken on Board Ships coming from the plantations, which has been of Dangerous Consequence; Our Will and Pleasure therefore is, that You signify to all Merchants, Planters and others, that they be very Cautious in time of War whenever that shall happen in giving any account by the Letters of the publick State and Condition of Our province under your Government; And You are further to give directions to all masters of Ships or other persons to whom you may Entrust Your Letters, that they put such Letters into a Bag, with a Sufficient Weight to sink the same Immediately in case of Imminent Danger from the Enemy, and You are also to let the Merchants and Planters know, how greatly it is for their Interest that their Letters should not fall into the Hands of the Enemy; and therefore that they should give like Orders to Masters of Ships in Relation to their Letters; and You are further to advise all Masters of Ships that they do sink all Letters in Case of Danger in the manner before mentioned—

69. And Whereas the Merchants and Planters in Our plantations in America have, in time of War, Corresponded and traded with our Enemies, and carried Intelligence to them, to the great Prejudice and Hazard of Our said plantations; You are therefore by all possible Methods, to endeavour to hinder such Trade and Correspondence in time of War—

70. And You are to Report to Us, by one of Our principal Secretaries of State; What is the Nature of the Soil and Climate of the province under your Government, if it differs in those Circumstances from Our other Northern Colonies, in what that Difference consists, and what beneficial Articles of Commerce the different parts of it are capable of producing ?—

What Rivers there are, and of what extent and convenience to the planters ?

What are the principal Harbours, how situated, of what extent, and what is the Depth of Water and Nature of the Anchorage in each of them ?

What Quantity of Land is now under actual Improvement and Settlement ? what are the chief Articles of produce and Culture, the annual amount of the Quantity of each, and upon what Terms and Conditions the Inhabitants hold their Lands, either of Cultivation Rent, or personal Service ?—

What is the Quantity, Nature and property of the Land uncultivated, how much of it is capable of Culture, and what part thereof is private property ?—

What is the number of Inhabitants, Whites and Blacks distinguishing each; what number of the former is capable of bearing Arms, and what number of the latter is annually necessary to be supplied in proportion to the Land Cultivated.

What was the nature, form and Constitution of the Civil Government; what Judicatures were there Established, and under the Regulations did the french Inhabitants carry on their Commerce; and You are to transmit a Duplicate of such Account to Our Commissioners for Trade and plantations for their Information.

71. You are from time to time to send unto Us by One of Our principal Secretaries of State as aforesaid; An account of the Increase and Decrease of the Inhabitants, Whites and Blacks; And also an Account of all persons, Born, Christened and Buried and You are to Transmit duplicates of such Accounts to Our Commissioners for Trade and plantations for their Information.

72. Whereas it is absolutely necessary that We be exactly Informed of the State of Defence of all our plantations in America, as well in Relation to the Stores of War that are in each plantation, as to the Forts and Fortifications there, and what more may be necessary to be built for the Defence and Security of the same, You are as soon as possible to prepare an Account thereof with Relation to Our said province in the most particular manner, and You are therein to Express the present State of the Arms, Ammunition, and other Stores of War, belonging to the said Province, either in publick

Magazines, or in the Hands of private persons; together with the State of all places, either already forfeited or that you Judge Necessary to be forfeited for the Security of Our said province; and You are to transmit the said Accounts to Us by One of Our Principal Secretaries of State, and also Duplicates thereof to Our Commissioners for Trade and Plantations, for their Information, and also a Duplicate thereof to Our Master General or Principal Officers of Our Ordnance; which Accounts are to Express, the particulars of Ordnance, Carriages, Balls, Powder, and other Sorts of Arms, and Ammunition in Our publick Stores, and so from time to time of what shall be sent to you, or bought with the publick Money, and to Specify the time of the disposal and the Occasion thereof; and You are half yearly to transmit a General Account of the State of the Fortifications and Warlike Stores, specified in the manner above mentioned—

73. You are from time to time to give an Account what Strength your Neighbours have by Sea and Land, and of the Condition of their plantations, and what Correspondence You keep with them—

74. And in case of any Distress of any other of Our plantations, You shall, upon application of the respective Governors thereof unto you, assist them with what aid the Condition and Safety of Our province under Your Government can spare.

75. If any thing shall happen which may be of advantage or Security to Our province under Your Government, which is not herein, or by Your Commission provided for, We do hereby allow unto You with the Advice and Consent of Our Council, to take Order for the present therein, giving unto Us by One of Our principal Secretaries of State Speedy Notice thereof, that You may receive Our Ratification, if We shall approve the same; Provided always that You do not, by Colour of any power or Authority hereby given You, Commence or Declare War without Our Knowledge and particular Commands therein; and you are also to Transmit duplicate of such Notice, as aforesaid, to Our Commissioners for Trade and plantations for their Information—

76. And Whereas We have by the first Article of these Our Instructions to You directed and Appointed, that Your Chief Residence shall be at Quebec, You are nevertheless frequently to Visit the other parts of Your Government, in Order to Inspect the Management of all publick Affairs and thereby the better to take care, that the Government be so administered, that no disorderly practice may grow up contrary to Our Service and the welfare of Our Subjects—

77. And Whereas great Prejudice may happen to Our service, and the security of the Province by Your absence from those parts, You are not upon any pretence whatsoever to come into Europe, without having first obtained leave for so doing from Us under Our Sign Manual and Signet or by Our Order in Our privy Council; Yet nevertheless in Case of Sickness, You may go to South Carolina, or any other of Our Southern plantations,

and there Stay for such Space as the Recovery of Your Health may absolutely require—

78. And Whereas We have thought fit by Our Commission to direct, that in Case of Your Death or absence from Our said province, and in Case there be at that time no person within Our said province Commissionated or Appointed by Us to be Our Lieutenant Governor or Comander in Chief that the Eldest Councillor, who shall be at the time of Your Death or absence residing within Our said Province under Your Government, shall take upon him the Administration of Government, and execute our said Commission and Instructions, and the several powers and Authorities therein directed—It is nevertheless Our Will and Pleasure that in such Case the said President shall forbear to pass any Act or Acts but what are immediately necessary for the peace and Welfare of the said Province, without our particular Orders for that purpose, and that he shall not remove or Suspend any of the Members of Our Council, nor any Judges, Justices of the peace, or other Officers Civil or Military, without the advice and consent of at least Seven of the Members of Our said Council, nor even then without good and sufficient Reasons for the same which the said President is by the first Opportunity to transmit Signed by himself and the rest of Our said Council, to Us by One of Our principal Secretaries of State, and he is also to transmit a Duplicate of such Reasons to Our Commissioners for Trade and plantations for their Information—

79. And Whereas We are willing in the best manner to provide for the Support of the Government of Our Province aforesaid, of which You are Governor, by setting apart sufficient allowances to such as shall be Our Governor or Commander in Chief residing for the time being within the same, Our Will and Pleasure is, that when it shall happen, that You shall be Absent from Our said Province, One full Moiety of the Salary and all perquisites and Emoluments whatsoever, which would otherwise become due unto you, shall during the time of Your absence, be paid and satisfied unto Our Commander in Chief, who shall be resident within our said province for the time being, which we do hereby Order and allot to him for his Maintenance and for the better Support of the Dignity of that Our Government.

80. And You are upon all Occasions to send unto Us by One of Our principal Secretaries of State a particular Account of all Your proceedings, and of the Condition of Affairs within Your Government, and also a Duplicate thereof to Our Comissioners for Trade and plantations, for their Information, except in cases of a Secret Nature—

MEMORANDUM—The Instructions relative to the Acts of Trade and Navigation for Gov^{r} Carleton are the same with those given to Gov^{r} Shirley for the Bahama Islands—

Plantation Book, 1767–1771 Privy C. O.

Quebec. General Instructions, Gov. Carleton, approved by His Majesty in Council the day of 1768.

SESSIONAL PAPER No. 18

HILLSBOROUGH TO CARLETON.[1]

WHITEHALL, 12th Octr 1768.

GOVr CARLETON.

SIR,

* * * * * *

The proper support and encouragement to be given to the Church of England as well as the necessary toleration to be allowed to His Majesty's new subjects in the exercise of the Roman Catholic Religion, will be matters of serious attention in the consideration of the general regulations for the Colony of Quebec, which important business is, I trust, now drawing near to some conclusion.

In the mean time His Majesty does not doubt that you will give all necessary protection to the new subjects in the exercise of their religion; and is pleased to recommend it to you particularly to countenance the established Church, and to take care that the Offices of it are administered with a decency corresponding to the purity of its principles.

* * * * * *

I am &c.

HILLSBOROUGH.

CARLETON TO HILLSBOROUGH[2]

Secret Correspondence QUEBEC Novr 20th 1768.

MY LORD Since my arrival in this province, I have not been able to make any discovery, that induces me to give credit to the paper of intelligence inclosed in your Lordships letter of the 14th of May last[3]; nor do I think it probable the Chiefs of their own free motion in time of peace, dare assemble in numbers, consult, and resolve on a revolt; or that an assembly of military men should be so ignorant, as to fancy they could defend themselves by a few fireships only, against any future attack from Great-Britain, after their experience in fifty nine. Notwithstanding this, and their decent and respectful obedience to the Kings government hitherto, I have not the least doubt of their secret attachments to france, and think this will continue as long as they are excluded from all employments under the Brittish Government, and are certain of being reinstated, at least in their former Commissions under that of france, by which chiefly they supported themselves, and families.

When I reflect that france naturally, has the affections of all the people; that, to make no mention of fees of Office & the vexations of the Law,

[1] Canadian Archives, Q 5-2, p. 756. The portions omitted refer to the appointment of two ministers of the Church of England to the parishes of Quebec and Three Rivers, and the objections of Carleton to one of them, formerly a French Jesuit.

[2] Canadian Archives, Q 5-2, p. 890.

[3] This letter does not appear among the State Papers in the Canadian Archives.

we have done nothing to Gain one man in the province, by making it his private interest to remain the King's Subject; and that the interests of many would be greatly promoted by a revolution; I own, my not having discovered a treasonable correspondence, never was proof sufficient to convince me, it did not exist in some degree, but I am inclined to think, if such a message has been sent, very few were entrusted with the secret. perhaps the Court of france, informed a year past by Monsr de Chatelet, that the King purposed raising a Regiment of His new subjects, caused this piece of intelligence to be communicated, to create a jealousy of the Canadians, and prevent a measure that might fix their attachments to the Brittish government, and probably, of those Savages who have always acted with them: however that be, on receiving this news from france last Spring, most of the Gentlemen in the province applied to me, and begged to be admitted into the King's Service, assuring me they would take every opportunity to testify their zeal, and gratitude for so great a mark of favour & tenderness, extended, not only to them, but to their posterity.

When I consider further; that the Kings dominion here is maintained here but by a few troops, necessarily dispersed, without a place of security for their magazines, for their Arms, or for themselves; amidst a numerous military people, the Gentlemen all Officers of experience, poor, without hopes that they or their descendants will be admitted into the service of their present Sovereign, I can have no doubt that france, as soon as determined to begin a war will attempt to regain Canada, should it be intended only to make a diversion, while it may reasonably be undertaken with little hazard, should it fail, and where so much may be gained, should it succeed. But should france begin a War in hopes the Brittish-colonies will push matters to extremities, and she adopts the project of supporting them in their independent notions, Canada, probably, will then become the Principal scene, where the fate of America may be determined. Affairs in this situation, Canada in the hands of france would no longer present itself as an enemy to the Brittish colonies, but as an ally, a friend, and a protector of their Independency. Your Lordship must immediately perceive the many disadvantages Great Britain would labour under in a war of this nature; and on the other hand, how greatly Canada might for ever Support the Brittish interests on this Continent, for it is not united in any common principle, interest, or wish with the other Provinces, in opposition to the Supreme-seat of Government, was the King's dominion over it only strengthened by a Cittadel, which a few national troops might secure, and the natives attached, by making it their interest to remain His Subjects.

My letters to the Earl of Shelburne No— 20, 23, 24, 25, & 26,[1] contain more fully my humble opinion of the measures necessary to obtain this de-

[1] For Nos. 20, 23 & 26, see pp. 281, 288, 294. No. 24 is 'Carleton to Shelburne' Jan. 18th, 1768, enclosing Minutes of Council from Oct. 1st to Dec. 31st, 1767. See Q 5-1, p. 351. No. 25 is 'Carleton to Shelburne,' Jan. 19th, 1768, enclosing petition of merchants with reference to bankruptcy law. See Q 5-1, p. 365.

sirable End, convinced, that the affections of the Canadians, or a great force, is necessary to secure this province in time of War, or, at least, till the marine of france is thoroughly subdued: to those letters I refer your Lordship for further particulars, and am, with great regard, and esteem,

Your Lordships most Obedient & most humble Serv[t]

GUY CARLETON

To the Earl of Hillsborough

A DRAUGHT of An Intended Report of the Honourable the Governor in Chief and the Council of the Province of Quebec to the King's most Excellent Majesty in his Privy Council; concerning The State of the Laws and the Administration of Justice in that Province.[1]

May it please your Majesty,

In humble obedience to your Majesty's order in council, of the 28th day of August 1767,[2] wherein your Majesty is pleased to order that we should report to your Majesty,

First. Whether any, and what, defects are now subsisting in the present state of Judicature in this your Majesty's province of Quebec:

And Secondly. Whether the Canadians are, or think themselves, aggrieved according to the present administration of justice: wherein, and in what respects; together with our opinions of any alterations or amendments that we can propose for the general benefit of the said province; and that such alterations and amendments, for the clearer apprehension thereof, be transmitted to your Majesty in the form of ordinances, but not passed as such; and that such report be returned, signed by your Majesty's governor, or his *locum tenens*, the chief justice, and attorney general of the said province; but that, if they should not concur, the person or persons differing in opinion should be required to report the difference of his opinions, together with his reasons for such difference of opinion, fully and at large:

We lay before your Majesty the following view of the laws and customs which at present prevail in this province, and of the rules of decision observed by your Majesty's courts of judicature in the administration of justice, together with such observations on these heads as the experience we have had in our respective offices since we have had the honour to serve your Majesty in this province has enabled us to make.

[1] From *A Collection of Several Commissions, and other Public Instruments, Proceeding from his Majesty's Royal Authority, Relating to the Province of Quebec.* Collected by Francis Maseres, Attorney General of the Province. London; 1772, p. 1. Given also in Canadian Archives, Q 56-2

[2] See p. 285.

The laws of England are generally thought to be in force in this province.

In the first place, we beg leave to observe to your Majesty, that the laws of England are generally supposed to be in force in this province. All criminal proceedings have been carried on according to these laws: and in civil matters no other laws are cited, or appealed to, or allowed to be of any weight in the courts of justice; though in one or two causes certain customs that prevailed here in the time of the French government have been admitted as the grounds of the decisions, because the causes of action in those litigations had arisen either in the time of the French government, or during your Majesty's government of this province by your military commanders, during which period the ancient laws and usages of the country were supposed to be in force.

The commission of the chief justice refers to them.

But since the establishment of civil government your Majesty's chief justice of the province has acted by virtue of a commission[1] that commands him to decide all matters that come before him *according to the laws and customs of that part of your Majesty's kingdom of Great Britain called England, and the laws, ordinances, rules, and regulations of your Majesty's province of Quebec hereafter in that behalf to be ordained and made:* so that he is not at liberty to allow of any other laws or customs but those of England, unless they are expressly introduced or revived by some of the ordinances of the province made since the establishment of the civil government. And further, besides this commission,

So does the ordinance of the 17th of September 1764.

there is an express ordinance of the province which obliges both your Majesty's chief justice and the other judges of the province to follow the same rule of judgment. This is the ordinance of the 17th of September 1764,[2] passed by the governor and council of the province upon the introduction of the civil government, to erect and constitute the courts of justice by which the said civil

Purport of this ordinance.

government was to be carried on. This ordinance erects, in the first place, one superior court of judicature, called the King's Bench, in which it directs that your Majesty's chief justice of the province shall preside, *with power and authority to hear and determine all criminal and civil causes, agreeable to the laws of England and to the ordinances of this province:* and, in the second place, an inferior court of judicature, called the Court of Common Pleas, with power and authority to determine all property above the value of ten pounds, with a liberty to either party to appeal to the superior court, or court of King's Bench, where the matter in contest is of the value of twenty pounds, or upwards; and directs that the judges in this court shall determine the matters before them agreeable to equity, *having regard nevertheless to the laws of England as far as the circumstances and situation of*

[1] See Commission of Chief Justice Hey; p. 273.
[2] See p. 205.

things will permit, until such time as proper ordinances for the information of the people can be established by the governour and council, agreeable to the laws of England: and it farther directs, *that the French laws and customs shall be allowed and admitted in all causes in this court between the natives of this province, where the cause of action arose before the 1st day of October* 1764. It then, in the third place, gives powers to justices of the peace to determine matters of property of small value in a summary way, either singly, if the matter in dispute does not exceed the value of five pounds, or in conjunction with each other in weekly and quarterly sessions, where the matter in contest is of a greater value. The words of this ordinance, by which these things are ordained, are of the tenor following :

The words of the ordinance.

"Whereas it is highly expedient and necessary for the well "governing of his Majesty's good subjects of the province of "Quebec, and for the speedy and impartial distribution of justice "among the same, that proper courts of judicature, with proper "powers and authorities, and under proper regulations, should "be established and appointed ; his excellency the governor, by "and with the advice, consent, and assistance of his Majesty's "council, and by virtue of the power and authority to him given "by his Majesty's letters patent under the great seal of Great "Britain, hath thought fit to ordain and declare, and his said "excellency, by and with the advice, consent, and assistance "aforesaid, doth thereby ordain and declare;

"That a superior court of judicature, or court of King's "Bench, be established in this province to sit and hold terms in "the town of Quebec twice in every year, viz. one to begin on "the 21st day of January, called Hilary term, the other on the "21st day of June, called Trinity term.

"In this court his Majesty's chief justice presides, with power "and authority to hear and determine all criminal and civil "causes, agreeable to the laws of England and to the ordinances "of this province ; and from this court an appeal lies to the "governor and council, where the matter in contest is above the "value of three hundred pounds Sterling; and from the governor "and council an appeal lies to the King and council, where the "matter in contest is of the value of five hundred pounds Sterling, "or upwards.

"In all trials in this court all his Majesty's subjects in this "colony are to be admitted on juries without distinction.

"And his Majesty's chief justice once in every year to hold "a court of assize and general gaol delivery, soon after Hilary "term, at the towns of Montreal and Trois-Rivieres, for the more

"easy and convenient distribution of justice to his Majesty's "subjects in those distant parts of the province.

"And whereas an inferior court of judicature, or court of "Common Pleas, is also thought necessary and convenient, it is "further ordained and declared, by the authority aforesaid, that "an inferior court of judicature, or court of Common Pleas, is "hereby established, with power and authority to determine "all property above the value of ten pounds, with a liberty "of appeal to either party to the superior court, or court of "King's Bench, where the matter in contest is of the value of "twenty pounds, and upwards.

"All trials in this court to be by juries, if demanded by "either party ; and this court to sit and hold two terms in every "year at the town of Quebec, at the same time with the superior "court, or court of King's Bench. Where the matter in contest "in this court is above the value of three hundred pounds Sterling, "either party may (if they shall think proper) appeal to the "governor and council immediately, and from the governor and "council an appeal lies to the King and council, where the "matter in contest is above the value of five hundred pounds "Sterling, or upwards.

"The judges in this court are to determine agreeable to "equity, having regard nevertheless to the laws of England "as far as the circumstances and present situation of things will "admit, until such time as proper ordinances for the information "of the people can be established by the governor and council, "agreeable to the laws of England.

"The French laws and customs to be allowed and admitted "in all causes in this court between the natives of the province, "where the cause of action arose before the first day of October "one thousand seven hundred and sixty-four.

"The first process in this court to be an attachment against "the body.

"An execution to go against the body, lands, or goods of the "defendant.

"Canadian advocates, proctors, &c. may practice in this "court.

"And whereas it is thought highly necessary for the ease, "convenience, and happiness of all his Majesty's loving subjects, "that justices of the peace should be appointed for the respective "districts of this province, with power of determining property "of small value in a summary way, it is therefore further ordained "and declared, by the authority aforesaid, and full power is "hereby given and granted to any one of his Majesty's justices "of the peace, within their respective districts, to hear and finally

"determine in all causes or matters of property not exceeding the "sum of five pounds current money of Quebec ; and to any two "justices of the peace, within their respective districts, to hear "and finally determine in all causes or matters of property not "exceeding the sum of ten pounds said currency ; which decisions "being within, and not exceeding the aforesaid limitation, shall "not be liable to an appeal ; and also full power is, by the author- "ity aforesaid, given and granted to any three of said justices of "the peace to be a *quorum*, with power of holding quarter sessions "in their respective districts every three months, and also to "hear and determine all causes and matters of property which "shall be above the sum of ten pounds, and not exceeding thirty "pounds current money of Quebec, with liberty of appeal to "either party to the superior court, or court of King's Bench. "And it is hereby ordered, that the aforesaid justices of the peace "do issue their warrants directed to the captains and other "officers of the militia in this province, to be by them executed, "until the provost-marshal, legally authorized by his Majesty, "shall arive, and other inferior officers be appointed for that "purpose ; all officers, civil and military, or other his Majesty's "loving subjects, are hereby commanded and required to be "aiding and assisting to the said justices and officers of militia "in the due execution of their duty. And it is further ordered "and directed, by the authority aforesaid, that two of the said "justices of the peace do sit weekly in rotation, for the better "regulation of the police and other matters and things in the "towns of Quebec and Montreal, and that the names of the "justices who are to sit in each week be posted up on the door of "the Session-house by the clerk of the peace, two days before "their respective days of sitting, that all persons may know to "whom to apply for redress."

The ordinance of the 6th of November 1764.

Further, by another ordinance of your Majesty's governour and council, dated the 6th day of November 1764,[1] it is ordained, that until the 10th day of August next, that is, of August 1765, the tenures of lands, with respect to such grants as are prior to the cession of Canada to the Crown of Great Britain by the definitive treaty of peace of February 1763, and the rights of inheritance, as practised before that period, in such lands, shall remain to all intents and purposes the same, unless they shall be altered by some declared and positive law. The words of this ordinance relating to this subject are of the tenor following :

The words of this ordinance

"Whereas it appears right and necessary to quiet the minds "of the people in regard to their possessions, and to remove every

[1] See p. 229.

"doubt respecting the same, which may any ways tend to excite "and encourage vexations lawsuits ; and until a matter of so "serious and complicated a nature, fraught with many and great "difficulties, can be seriously considered, and such measures "therein taken as may appear the most likely to promote the well-"fare and prosperity of the province in general, his excellency, "by and with the advice and consent of his Majesty's council, "doth hereby ordain and declare that, until the 10th day of "August next, the tenures of lands, in respect to such grants as "are prior to the cession thereof by the definitive treaty of peace "signed at Paris the 10th day of February one thousand seven "hundred and sixty-three, and the rights of inheritance, as "practised before that period, in such lands or effects, of any "nature whatsoever, according to the custom of this country, "shall remain to all intents and purposes the same, unless they "shall be altered by some declared and positive law; for which "purpose the present ordinance shall serve as a guide and direction "in all such matters to every court of record in this province. "Provided that nothing in this ordinance contained shall extend, "or be construed to extend, to the prejudice of the rights of the "Crown, or to debar his Majesty, his heirs or successors, from "obtaining by due course of law in any of his courts of record "in this province, according to the laws of Great Britain, any "lands or tenements, which at any time hereafter may be found "to be vested in his Majesty, his heirs or successors, and in the "possession of any grantee or grantees, his, her, or their assigns, "or such as claim under them by virtue of any such grants as "aforesaid, or under pretence thereof, or which hereafter may be "found to have become forfeited to his Majesty by breach of "of all or any of the conditions in such grants respectively "mentioned and contained."

Conclusion necessarily following from this ordinance in favour of the introduction of the laws of England.

By this latter ordinance we conceive that all the lands in this province, whose owners have died since the 10th day of August 1765, are meant to be subjected to the English law of inheritance, and to the English custom of dower, and to the English rules of forfeiture to your Majesty for high treason, or escheat to your Majesty, or to such other lord of whom they are holden, for felony or defect of heirs, and to all the other rules of the English law relating to land-property, even though the said lands had been originally granted before the signing of the definitive treaty of peace; and that all lands granted since the said peace were already, at the time of making the said ordinance, subject to the said English rules and customs, and were so to continue.

By these two ordinances, which have been transmitted to your Majesty and never disallowed, and are therefore supposed to have received the sanction of your Majesty's royal approbation, the Canadian laws and customs have been generally supposed to be abolished, and the English laws and customs to have been introduced in their stead, and the judges of your Majesty's courts of judicature in this province have conceived themselves to be in conscience bound to administer justice according to the laws of England.

Other public instruments which have tended to produce the same effect.

Besides these two ordinances there are several other public instruments and acts of government by which the laws of England are supposed to have been introduced into this province. Some of these instruments are acts of parliament, which introduce those particular parts of the laws of England, to which they relate, into this province ; and others of them are instruments of a high and important nature, that bear the sanction of your Majesty's royal authority, by which it is generally understood to have been your royal pleasure to abolish the former laws and customs of this province, and for the sake of governing your new Canadian subjects in a milder and more indulgent manner than they had heretofore been used to, and associating and connecting them with the greater part of your ancient and natural-born subjects of Great Britain by the strong tie of an union and communion of laws, to introduce the laws of England in their stead. These acts of parliament and other instruments of government are as follows ;

Acts of Parliament.

The acts of parliament that relate to this province are of two kinds; some of them are prior to the conquest of this province by your Majesty's arms in the year 1760, but extend to your Majesty's future American dominions, as well as those which belonged to the Crown of Great-Britain at the times of passing them, either by express words for that purpose, or by some general words that have been deemed by your Majesty's ministers and law-officers, by just construction in law, to comprehend them ; and others of the said acts have been passed by your Majesty's self, by the advice and with the consent of your parliament, since the conquest and cession of this province by the last definitive treaty of peace.

Stat. I. Eliz. cap. I.

The most ancient act of parliament of the first kind that we have met with is that of the 1st of Queen Elizabeth, chap. I, by which the pretended authority of the bishop of Rome was abolished throughout all the dominions of the crown of England. The 16th section of this statute is of the following tenor : "And "to the intent that all usurped and foreign power and authority, "spiritual and temporal, may forever be clearly extinguished,

"and never to be used or obeyed within this realm, or any other "your Majesty's dominions or countries, may it please your "Highness that it may be further enacted, by the auth rity "aforesaid, that no foreign prince, person, prelate, state, or "potentate, spiritual or temporal, shall, at any time after the "last day of this session of parliament, use, enjoy, or exercise "any manner of power, jurisdiction, superiority, authority, "pre-heminence, or privilege, spiritual or ecclesiastical, within "this realm, or within any other your Majesty's dominions and "countries that now be, *or hereafter shall be;* but from thenceforth "the same shall be clearly abolished out of this realm and all other "your Majesty's dominions for ever; any statute, ordinance, "custom, constitutions, or any other matter or cause whatsoever "to the contrary in any wise notwithstanding."

By this section of that statute, and the express words, *any other your Majesty's dominions and countries that now be, or hereafter shall be*, we humbly apprehend that all exercise of the pope's authority, or of any ecclesiastical authority derived from him, is prohibited in this province as much as it is in England itself.

The next section of this act of parliament annexes all ecclesiastical jurisdiction to the crown of England.

The 19th section requires all bishops and other ecclesiastical persons, and all ecclesiastical officers and ministers, and all temporal judges, justices, mayors, and other lay or temporal officers and ministers, and every other person having the Queen's fee or wages, within the realm of England, or *any other her Highness's dominions*, to take the oath of supremacy.

The 24th section enacts, that every temporal person doing homage for his lands to the Queen, her heirs or successors, or that shall be received into the service of the Queen, her heirs or successors, shall take the same oath.

And the 27th section enacts, that if any person of any degree whatsoever, dwelling within the realm of England, or *in any other the Queen's realms or dominions*, shall by writing, teaching, or preaching, maintain or defend the authority, spiritual or ecclesiastical, of any foreign prince, prelate, person, state, or potentate whatsoever, heretofore claimed, used, or usurped within the realm of England, *or any dominion or country being within or under the power, dominion, or obeysance of the Queen's highness*, he shall forfeit all his goods and chattels for the first offence.

We submit it to your Majesty that this statute seems, from the whole complexion of it, as well as from the positive words, *your Majesty's dominions that hereafter shall be*, to have been considered by the legislature that passed it as an indispensable

part of the general policy of the English government, and to have been intended to take place in every country that either then made or should thereafter make a part of the dominions of the crown of England.

Stat 15 Car. II. cap. 7.

The next statute that we have met with of this comprehensive nature is the statute of the 15th of Charles the Second, chap. 7, intitled, "An Act for the Encouragement of Trade." In the 7th section of this statute it is enacted, that after the 25th day of March 1664, no commodity of the growth or manufacture of Europe shall be imported into any land, island, plantation, colony, territory, or place to his Majesty belonging, *or which shall hereafter belong unto, or be in the possession of, his Majesty, his heirs and successors*, in Asia, Africa, or America (Tangier only excepted) but what shall be laden and shipped in England, Wales, or the town of Berwick upon Tweed, and in English-built shipping.

Stat. 7 and 8 of Will. III. cap. 22.

Another statute of the same kind is the stat. 7 and 8 Will. III. chap. 22, intitled, "An Act for preventing Frauds, and regulating Abuses, in the Plantation Trade;" by which it is enacted and ordained, that after the 25th day of March, in the year 1698, no goods or merchandizes whatsoever shall be imported into, or exported out of, any colony or plantation to his Majesty in Asia, Africa, or America belonging, or in his possession, *or which may hereafter belong unto, or be in the possession of, his Majesty, his heirs or successors*, in any ship or bottom but what is or shall be of the built of England, or of the built of Ireland, or of the built of the said colonies or plantations.

And the other acts of parliament relating to the trade of your Majesty's American colonies, though they have not such strong positive words in them as the three statutes above-mentioned, yet are generally understood to extend to this province as well as to your Majesty's more ancient American dominions ; and, agreeably to this opinion, your Majesty has caused a clause to be inserted in your commission to your governour of this province,[1] directing him to take the oath required to be taken by governours of the plantations to do their utmost that the several laws relating to trade and plantations be duly observed ; and this oath he hath accordingly taken. And your Majesty's commissioners of the customs have appointed a collector and comptroller of the customs, and other officers necessary for the collection of them, for this part of Quebec, in order to carry all these acts of parliament into execution.

[1] See Instructions to Governor Murray, latter part of sec. 3, p. 183.

Stat. 2, 12 Ann. cap. 18.

Another statute that we understand to be in force in this province, though made before the conquest of it, and not extended by express words to the future dominions of the crown of Great Britain, is stat. 2, 12th Ann. chap. 18, intitled, "An Act for "preserving all such Ships and Goods thereof which shall happen "to be forced on Shore, or stranded, upon the coasts of this "kingdom, or any other of her Majesty's dominions." This statute, and another of the 4th of Geo. I. chap. 12, for enforcing and making the former perpetual, have been declared by your Majesty's attorney and sollicitor general, in the month of June 1767, in an opinion given by them to your Majesty's lords commissioners of trade and plantations, upon a case stated to them by those lords, to extend to your Majesty's plantations in America : and no exception is made in their opinion of those of your Majesty's dominions in America which have been acquired since the passing of those statutes. And your Majesty's ministers have transmitted the said case and opinion to your Majesty's governour of this province, upon a supposition, as we apprehend, that it extends to this province as well as to all the others.

These are the acts of parliament passed before the conquest and cession of Canada that we conceive to be in force in this province by their own import and operation, and without needing any further act of government to introduce them.

Some of the acts of parliament passed by your Majesty's self since the conquest and cession of Canada relating to this province are these that follow :

Stat. 4 Geo. III. cap. 11.

The first of these statutes is that of the 4th year of your Majesty's reign, chap. II, which, amongst other things, enacts, that so much of an act made in the 8th year of King George the First, intitled, "An Act for giving further Encouragement to the "Importation of Naval Stores, and for other purposes therein "mentioned," as relates to the importation of wood and timber, and of the goods commonly called *Lumber*, therein particularly enumerated, from any of your Majesty's British plantations or colonies in America, free from all customs and impositions whatsoever, shall be continued, beyond the times appointed in former acts, to the 29th of September in the year 1771.

In this statute the words *British plantations* are generally understood to relate to this province as well as to your Majesty's other colonies in America; and a copy of this statute has accordingly been transmitted by the commissioners of your Majesty's customs in London to your Majesty's collector of the customs in this port.

Stat. 4 Geo. III. cap. 19.

The next act of parliament of this kind is of the same 4th year of your Majesty's reign, chap. 19. This statute expressly relates to this province by name, being intitled, "An Act for im- "porting Salt from Europe into the Province of Quebec in Amer- "ica for a limited Time." It enacts, "that it shall be lawful for "any of his Majesty's subjects to carry and import salt from any "part of Europe into the said province of Quebec in America in "British ships and vessels manned and navigated according to "the act of navigation; *any law, statute, usage, or custom to the "contrary in any wise notwithstanding.*"

By these last words it seems to be supposed that all the former laws and statutes of Great Britain relating to this subject of the importation and exportation of goods and merchandize, made before the conquest of this province, are of force in this province as well as in the other British provinces in America.

Stat. 4 Geo. III. cap. 15.

Another act of parliament passed by your Majesty, and expressly relating to this province, is the statute of the same 4th year of your Majesty's reign, chap. 15, intitled, "An Act for "granting certain duties in the British colonies and plantations in "America, and for other purposes." By this statute it is enacted, that certain rates and duties therein mentioned shall be paid upon several species of foreign goods therein enumerated that shall, after the 29th day of September 1764, be imported or brought into any colony or plantation in America, *which now is, or hereafter may be,* under the dominion of your Majesty, your heirs and successors; and these duties are accordingly levied and paid in this province.

These are the acts of parliament, or at least some of them (for possibly there may be others which have escaped our notice) which by their own import and operation extend, as we conceive, to this province, without the help of any other instrument or act of government to introduce them; and therefore such parts of the laws of England as are contained in these statutes are certainly in force in this province, being introduced into it by the highest authority, that of your Majesty, or your royal predecessors, in conjunction with both houses of parliament. The remaining parts of the laws of England have been introduced, or are generally understood to have been introduced, by a series of public instruments, or acts of government, founded on your Majesty's royal authority alone, without the concurrence of your parliament. These public instruments and acts of government are as follows:

Articles of capitulation granted to the Canadians by

The first of these public instruments is the capitulation granted by your Majesty's general, Sir Jeffrey Amherst, to the inhabitants of Canada at the general surrender of the whole

Gen. Amherst, in 1760. Article 42d.

country to your Majesty's arms in the year 1760.[1] In the 42d article of this capitulation it is desired by the French commander, on the behalf of the French and Canadian inhabitants of this province, that they shall continue to be governed according to the custom of Paris and the laws and usages established in this country; to which it is answered by your Majesty's general, that they become subjects to the King: by which it should seem, that these your Majesty's new subjects in this province were put upon the same footing as your Majesty's other subjects in other parts of your Majesty's British dominions with respect to the laws by which they were to be governed, and the power of legislation that was to be exercised over them for the time to come; and that the continuance or abolition of their former laws and customs was to depend entirely upon the future counsels which your Majesty, in your royal wisdom, should find it expedient to pursue.

Article 27th

The 27th article of this capitulation demands, that the free exercise of the Roman Catholic religion shall subsist intire, in such manner that all the people shall continue to assemble in the churches and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly; and then it goes on and demands, in the second place, that the people shall be obliged by the English government to pay the priests the tithes and all the taxes they were used to pay under the government of the French king. The general's answer to this article is as follows: "*Granted, as to the free exercise of their religion. The "obligation of paying tithes to the priests will depend on the King's "pleasure.*" By this answer it is evident that a bare toleration, or permission to exercise freely the Roman Catholic religion, without being molested for so doing by the execution of the penal laws of England upon that subject, is granted to the Canadians, together with a reasonable use of their churches for that purpose, though not, as we conceive, to the intire exclusion of your Majesty's Protestant subjects from making use of the same churches likewise: but a legal establishment of that religion, with a right to exact their tithes from the people as legal dues and not as voluntary contributions, is refused them, until your Majesty's pleasure shall otherwise direct, which your Majesty has not yet judged expedient to do. By this refusal all those parts of the Canadian laws and usages relating to the payment of tithes and other church dues are either abolished or suspended.

Article 31st

The 31st article of the same capitulation is as follows: "The "bishop shall, in case of need, establish new parishes, and provide

[1]See Capitulation of Montreal, p. 7.

"for the re-building of his cathedral and his episcopal palace; "and, in the mean time, he shall have the liberty to dwell in the "town or parishes, as he shall judge proper. He shall be at "liberty to visit his diocese with the ordinary ceremonies, and "exercise all the jurisdiction which his predecessor exercised "under the French government, save that an oath of fidelity, "or a promise to do nothing contrary to his Britannic Majesty's "service, may be required of him." To this article your Majesty's general made the following answer: "*This article is comprised "under the foregoing.*" Now the foregoing, or 30th, article is directly refused; therefore this article must be deemed to be refused likewise: and consequently by this refusal all those parts of the Canadian laws and customs that give a right to the bishop of Quebec to establish new parishes, and to provide for the re-building of his cathedral and his episcopal palace, and to visit his diocese with the ordinary ceremonies, and to exercise the jurisdiction which had been exercised by his predecessors under the French government, are abolished; and your Majesty's ecclesiastical supremacy is vindicated and supported in a manner agreeable to that important and universal statute of the 1st of Queen Elizabeth above cited.

The definitive treaty of peace.

The next public instrument relating to the condition of this province is the definitive treaty of peace concluded at Paris on the 10th day of February 1763.[1] In the fourth article of this treaty it is declared, that your Majesty will give the most effectual orders that your new Roman Catholic subjects may profess the worship of their religion according to the rites of the Romish church, *as far as the laws of Great Britain permit.* By this reference to the laws of Great Britain it should seem to have been your Majesty's intention that those laws should be the fundamental rule of government in this province.

The King's proclamation in October 1763.

The next public instrument relating to this subject, and upon which great stress has been laid by all your Majesty's British subjects that have resorted to this province, is your Majesty's royal proclamation of the 7th October 1763,[2] which seems to have had principally in view the profit and advantages that might accrue to your Majesty's British subjects by resorting to, or settling in, the countries that had lately been ceded to your Majesty by the definitive treaty of peace. By this very solemn and important instrument, passed under your Majesty's great seal of Great Britain, it is declared, that "your Majesty, being "desirous that all your Majesty's loving subjects, as well of your "kingdoms as your colonies in America, may avail themselves,

[1] See Treaty of Paris, 1763, p. 97.
[2] See Proclamation of 1763, p. 163.

"with all convenient speed, of the great benefits and advantages "that must accrue from the great and valuable acquisitions lately "ceded to your Majesty in America, to their commerce, manu- "factures, and navigation, has thought fit, with the advice of "your privy council, to erect four new governments to be stiled "and called by the names of Quebec, East Florida, West Florida, "and Grenada; and that, as it will greatly contribute to the "speedy settling the said new governments that your Majesty's "loving subjects should be informed of your Majesty's paternal "care for the security of the liberty and properties of those who are "or shall become inhabitants thereof, your Majesty hath thought "fit to publish and declare, by that your Majesty's proclamation, "that your Majesty has, in the letters patent under the great seal "of Great Britain by which the said governments are constituted, "given express power and directions to your governours in the "said new colonies, that, so soon as the state and circumstances "of the said colonies will admit thereof, they shall, with the "advice and consent of the members of your Majesty's councils, "summon and call general assemblies within the said govern- "ments, in such manner and form as is used and directed in those "colonies and provinces in America which are under your Ma- "jesty's immediate government; and that your Majesty has also "given powers to the said governours, with the consent of your "Majesty's said councils, and the representatives so to be sum- "moned as aforesaid, to make, constitute, and ordain laws, sta- "tutes, and ordinances for the public peace, welfare, and good "government of your Majesty's said colonies and of the people "and inhabitants thereof, as near as may be to the laws of Eng- "land, and under such regulations and restrictions as are used "in other colonies." And then it is further declared in your Majesty's said proclamation, "that in the mean time, and until "such assemblies can be called as aforesaid, all persons inhabiting "in or resorting to your Majesty's said colonies *may confide in* "*your Majesty's royal protection for the enjoyment of the benefit* "*of the laws of your realm of England;* and that for that purpose "your Majesty had given power under the great seal to the gov- "ernours of your Majesty's said new colonies to erect and con- "stitute, with the advice of your Majesty's said councils respec- "tively, courts of judicature and public justice within the said "colonies for the hearing and determining all causes, as well "criminal as civil, according to law and equity, and, as near as "may be, agreeably to the laws of England, with liberty to all "persons who may think themselves aggrieved by the sentence "of such courts, in all civil cases, to appeal, under the usual

"limitations and restrictions, to your Majesty in your privy "council."[1]

The sense in which this proclamation has been understood by the British inhabitants of this province;

These are the words of your Majesty's said proclamation, and by them your Majesty's British subjects in this province declare that they have always understood that the laws of England have been introduced into this province, and that it was your Majesty's intention to assimilate the laws and civil government of it to those of the other American colonies and provinces which are under your Majesty's immediate government, and not to continue the municipal laws and customs by which the conquered people had heretofore been governed. And through a confidence in this proclamation, understood in this sense, they say they have quitted their native country to come and settle in this province, expecting to change only their climate by such a removal in pursuit of commercial advantages, and not to become subject to the laws of the conquered people, with which they are wholly unacquainted, and against which (though perhaps without reason) they entertain strong prejudices.

and by his Majesty's late governour and council;

And in this sense was this proclamation understood also by your Majesty's late governour of this province and his council, who did not, in making the important ordinance above mentioned, of the 17th of September 1764, conceive themselves to be overturning all the ancient laws and customs of this country, and introducing the laws of England in their stead, but meant only to erect and constitute courts of judicature to administer a system of laws already in being, to wit, the laws of England, which they conceived to have been already introduced there by the words of your Majesty's proclamation. And in this sense

and the lords commissioners for trade and plantations in September, 1765.

likewise your Majesty's lords commissioners for trade and plantations, in the month of September 1765,[2] understood these words in your Majesty's proclamation: for in the 7th and last article of a report made by the said lords commissioners, upon certain memorials and petitions from your Majesty's subjects in this province, complaining of the ordinances and proceedings of the governour and council of this province, and of the then present establishment of courts of judicature and other civil constitutions, to the lords of the committee of your Majesty's privy council for plantation affairs, dated on the 2d day of September in the said year, the said lords commissioners of trade propose, *that in all cases where rights or claims are founded on events prior to the conquest of Canada, the several courts shall be*

[1] On comparing the passages within quotation marks with the Proclamation itself, it will be found that though the sense is preserved the letter is very considerably altered; the address is changed from the first to the second person, and certain formal clauses are either omitted or abridged.

[2] The Report of 2nd Sept. 1765, p. 237; discussed in Report of Yorke and de Grey p. 251.

governed in their proceedings by the French usages and customs which have heretofore prevailed in respect to such property; from which words it appears plainly that their lordships understood that in all cases, where rights and claims are founded on events posterior to the said conquest, the several courts of justice were to be governed by the English laws, and that their lordships were sollicitous to make an express provision, that this general rule of deciding cases according to the English laws should not be applied to such causes as were founded on events that were prior to the said conquest, in which cases it would be manifestly unjust.

The more confined sense in which it was understood by his Majesty's attorney and solicitor general, in April 1766.

We know at the same time that your Majesty's attorney and sollicitor general, in the following month of April 1766,[1] understood the words of your Majesty's royal proclamation in a more confined sense, as being introductive of only some select parts of the laws of England that were more particularly beneficial to your Majesty's English subjects, and not of the whole body of those laws. This they took to be the true import of these words in your Majesty's proclamation above-mentioned, *the enjoyment of the benefit* of the laws of England; and they were of opinion that the criminal laws of England were almost the only laws that came under that description; and that the laws of England relating to the descent, alienation, settlements, and incumbrances of real estates, and to the distribution of personal property in case of intestacy, were certainly not comprehended under it. Whether this or the former way of interpreting this part of your Majesty's proclamation is the true one, belongs only to your Majesty to determine, according to the ancient rule of law laid down by the celebrated lawyer *Bracton*, that "*cujus est condere, ejus est interpretari.*" All that we presume to do on this occasion is to lay before your Majesty a full and plain historical account of the several public instruments and acts of government by which the laws of England have either been introduced, or imagined to be introduced, into this province in lieu of those laws and customs which were observed in it heretofore.

The commission given to Gen. Murray in 1764 to be vice admiral of the province of Quebec.

The next public instrument of this kind is your Majesty's commission to General Murray in the year 1764, to be vice-admiral, commissary and deputy in the office of vice-admiralty in the province of Quebec.[2] This is a judicial commission, by which the said General was impowered to enquire, by the oaths of honest and lawful men of the said province, of all and singular matters and things which of right, and by the statutes, laws, ordinances, and customs, anciently observed, were wont and ought to be enquired after; and of wreck of the sea; and of goods

[1] See Report of Yorke and de Grey, p. 251.
[2] See Maseres' *Collection of Several Commissions, &c.*, p. 113.

of felons of themselves; and likewise of goods waived, flotson, jetson, ligan, deodands, derelicts, and other casualties upon the sea, or sea coast, or fresh-water rivers, as far as the tide flows; and also of anchorage, lastage, ballast, and fish royal anciently by right or custom belonging to your Majesty; and to arrest or cause to be arrested, according to the civil and maritime laws and ancient customs of your Majesty's court of admiralty, all ships, persons, and merchandizes for causes arising within the maritime jurisdiction, and to hear and determine the said causes, with all the matters incident thereunto, according to the laws and customs aforesaid; and to fine, chastise, and imprison within any of the gaols of the province the parties that shall be found guilty, according to the rights, statutes, laws, ordinances, and customs anciently observed.

By this commission it is evident your Majesty has introduced into this province all the laws of your Majesty's English court of admiralty, in lieu of the French laws and customs by which maritime causes were decided in the time of the French government.

The commission of governor in chief of this province given to Gen. Murray in 1764, and the instructions that accompanied it.

The next public instrument relating to this subject is your Majesty's commission to General Murray in the year 1764 to be captain general and governour in chief in and over this your Majesty's province of Quebec. This commission, and the instructions that accompanied it,[1] seem every where to presuppose that the laws of England were in force in this province, being full of allusions and references to those laws on a variety of different subjects, and do not contain the least intimation of a saving of any part of the laws and customs that prevailed here in the time of the French government.

A probable inference from the stile and purport of the said commission and instructions.

It seems as if your Majesty had been of opinion, that by the refusal of General Amherst to grant to the Canadians the continuance of their ancient laws and usages, and by the reference made in the fourth article of the definitive treaty of peace to the laws of Great Britain, as the measure of the indulgence intended to be shewn them with respect to the exercise of their religion, sufficient notice had been given to the conquered inhabitants of this province, that it was your Majesty's pleasure that they should be governed for the future according to the laws of England, and that they, after being thus apprised of your Majesty's intention, had consented to be so governed, and had testified their said consent by continuing to reside in the country and taking the oath of allegiance to your Majesty, when they might have withdrawn themselves from the province, with all their

[1] See Murray's Commission, p. 173, and Instructions, p. 181.

effects and the produce of the sale of their estates, within the eighteen months allowed by your Majesty for that purpose.

These are the public instruments by which it is generally supposed, by those who have perused them, that the laws of England have been introduced into this province. But as your Majesty's royal proclamation above-mentioned, and your commission to General Murray to be governour in chief of this province, have never been published here in the French language, and as the provincial ordinances above-mentioned of the 17th of September and the 6th of November 1764, which have been published here in the French language, have mentioned this change in the laws in very concise and general terms, without specifying or describing any of the laws of England that were thereby introduced, the greatest part of your Majesty's new subjects remain ignorant of *the extent* of the change to this hour, and imagine that their ancient laws and usages are *in many points* still in force. They still divide their lands upon an inheritance in the same manner as before the conquest; their widows are admitted to the same shares of them as before, without any regard to the English rule of dower, which differs widely from that of the French law; and the personal estates of persons who die intestate are distributed at their decease according to the rules of the French law, which are somewhat different (though not very greatly, as we are informed) from those of the English statute of distributions; and the distributions of their personal estates have likewise been made for the most part by persons authorized thereunto in the manner that was usual under the French government, and not by receiving letters of administration from your Majesty's governour of the province in the manner directed by your Majesty's instructions. Fortunately for the peace of the province no litigations have yet arisen in any of your Majesty's courts of justice to give occasion to decisions that would make them acquainted with the change of the laws in these particulars, which would probably create a great deal of uneasiness.

Some of the ancient laws and usages are still observed by the Canadians.

Yet upon the decease of your Majesty's British subjects in this province, their relations have taken out letters of administration from the governour of the province, agreeably to your Majesty's instruction for that purpose, and, as we believe, have followed the English rule of distribution; and some few, but very few, of your Majesty's new subjects have likewise taken out letters of administration in the same manner, but have followed, as we believe, the rules of the French law, with respect to the distribution of the effects. We humbly apprehend that this diversity in the practice of your Majesty's subjects

A diversity in the practice of the English and Canadian inhabitants of the province, with respect to letters of administration and the distribution of the effects of persons who die intestate.

in this province may hereafter be the occasion of some confusion, though happily no bad consequences have hitherto followed from it.

Another diversity in their practice with respect to the manner to the manner of conveying and mortgaging landed property.

There has likewise been a diversity in the practice of your Majesty's old and new subjects with respect to the manner of conveying and mortgaging landed property. Your Majesty's British subjects have bought and sold lands and houses by instruments drawn up by English lawyers according to the English modes of conveyancing; and your Majesty's Canadian subjects have employed Canadian notaries, or scriveners, for the same purposes, who have followed the French forms of conveyancing made use of before the conquest. And it has often happened that the same lands and houses have been sold and bought and mortgaged by both French and English conveyances, as they have passed into the hands of Canadian or British proprietors. This also, we conceive, may hereafter be productive of some confusion.

In some instances the Canadians have followed the laws of England.

Leases have likewise been made of lands near Quebec for twenty-one years by the society of jesuits in this province, though by the French law they can only be made for nine years. This has been done upon a supposition that the restraints upon the power of leasing lands imposed upon the owners of them by the custom of Paris of which this is one, have no longer any legal existence. Upon the same principle many owners of seigniories, Canadians as well as Englishmen, have made grants of uncleared land upon their seigniories for higher quit-rents than they were allowed to take in the time of the French government, without regard to a rule or custom that was in force at the time of the conquest, that restrains them in this particular. And as the seigniors transgress the French laws in this respect, upon a supposition that they are abolished or superseded by the laws of England, so the freeholders, or peasants, of the province transgress them in other instances upon the same supposition. For example, there was a law made by the French king concerning the lands of this province,[1] ordaining, that no man should build a new dwelling-house in the country (that is, out of the towns and villages) without having sixty French arpents, or about fifty English acres, of land adjoining to it, and that, if, upon the death of a freeholder and the partition of his lands amongst his sons, the share of each son came to less than the said sixty arpents of land, the whole was to be sold, and the money produced by the sale divided amongst the

[1] This refers to the ordinance of Louis XV. of 28th April, 1745:—"Ordonnance du Roi, portant entr'autres choses defenses aux habitans de bâtir sur les terres, à moins qu'elles ne soient d'un arpent et demi de front sur trente à quarante de profondeur." See *Edits, Ordonnances Royaux, Declarations et Arrets du Conseil d'Etat du Roi Concernant Le Canada.* Quebec, 1854, p. 585.

children. This was intended to prevent the children from settling themselves in a supine and indolent manner upon their little portions of land, which were not sufficient to maintain them, and to oblige them to set about clearing new lands (of which they had a right to demand of the seigniors sufficient quantities at very easy quit-rents) by which means they would provide better for their own maintenance, and become more useful to the public. But now this law is intirely disregarded; and the children of the freeholders all over the province settle upon their little portions of their father's land, of thirty, or twenty, and sometimes only ten acres, and build little huts upon them, as if no such law had ever been known here: and when they are reminded of it by their seigniors, and exhorted to take and clear new tracts of land, they reply that they understand that by the English law every man may build a house upon his own land whenever he pleases, let the size of it be ever so small. This is an unfortunate practice, and contributes very much to the great increase of idleness, drunkenness, and beggary, which is too visible in this province.

Further, many persons who have purchased seigniories in this province, and amongst them some Canadians, have hitherto declined paying to your Majesty's receiver-general the mutation-fine, or fifth part of the purchase money, due to your Majesty upon the admission of every new seignior by the custom of Paris. The English purchasers say that this, being part of the custom of Paris, is now abolished by the introduction of the laws of England; and the Canadian seigniors say that it is not due to your Majesty till they have been regularly invested with, or put in possession of, their seigniories, with all the rights and jurisdictions thereunto belonging, by your Majesty's officers of government, and have been admitted to take the oath of fealty and perform the ceremony of homage to your Majesty for the said lands; which has not hitherto been done.

Thus it appears that in many respects the Canadians apprehend the laws of England to be in force in this province, and that they endeavour to apply them and put them in practice whenever they take them to be for their advantage; though in other points, and particularly in those of inheritance and dower, and the distribution of the effects of persons who die intestate, they have universally adhered to their former laws and usages.

Criminal proceedings.

In criminal proceedings the Canadians as well as English universally suppose the laws of England to be in force. No others are ever mentioned or thought of; and the Canadians seem to be very well satisfied with them.

SESSIONAL PAPER No. 18

Civil proceedings in the court of King's Bench

And in all civil proceedings carried on in the superiour court, or court of King's Bench, the forms of all actions, the stile of the pleadings used in them, the method of trial, and the rules of evidence are those which are prescribed by the English law, and are universally known by the Canadians to be so.

Civil proceedings in the court of Common Pleas.

In the court of Common Pleas the proceedings are drawn up in any form and stile that the parties, or their advocates, think proper, and sometimes in the French and sometimes in the English language, as the attornies who prepare them happen to be Canadians or Englishmen; and for this reason they are oftenest in the French language, most of the business in this court being managed by Canadian attornies.

Arrests of the body for debt.

Arrests of the body for debt are used in the first instance both upon suits in the court of King's Bench and suits in the court of Common Pleas, and even upon suits instituted before justices of the peace. This is a part of the English law that a good deal surprized and alarmed the Canadians upon its first introduction, as it carried an appearance of much greater severity than was practised under their own laws, which allowed of imprisonment only in criminal proceedings and in some few civil suits grounded on bills of exchange, or other instruments of a commercial nature, and then only in execution of a judgment of the court, and not in the beginning of the suit; but now they are grown accustomed to this way of proceeding, and frequently put it in practice against each other: and many persons of good sense and character, of both nations, are of opinion that, considering the great credit that has been given by persons in trade in this province, and the knavish and trickish disposition that has appeared in many of those to whom it has been given, there is no other method of proceeding by which the creditors can hope to obtain payment of their debts. This is more especially the opinion of your Majesty's British subjects that are concerned in trade in this province, many of whom objected some time since to the execution of even a part of the English law itself, to wit, that part of it which relates to commissions of bankruptcy, upon a supposition of it's being too indulgent to debtors to be useful in this province; yet other persons are of a different opinion, and think arrests of the body in the first instance an unnecessary piece of harshness in civil suits, and wish that it were restrained[1]; and to this opinion we humbly submit it to your Majesty that we are ourselves inclined.

[1] These objections were presented to Lt. Governor Carleton in a memorial from a number of merchants of Quebec, dated Nov. 17th, 1767. See Q 5-1, p. 248. In Jan. 1768, certain Quebec and Montreal merchants, in another petition to the Lt. Governor, represented the advantages to the credit of the colony of having the English laws relating to bankruptcy in force. See Q 5-1, p. 367.

This is, as we conceive, a faithful representation of the present state of the laws in this province, and of the public instruments and acts of government upon which it is founded. We now beg leave to lay before your Majesty certain doubts that have arisen, and may arise, concerning the validity of those instruments, and the extent of their legal operation.

Remarks on some of the foregoing instruments.

We shall say nothing concerning the validity of your Majesty's proclamation of the 7th of October 1763, and the high legislative authority which your Majesty has therein thought proper to exercise with respect to your Majesty's new colonies, though there are persons who think that this branch of your Majesty's royal prerogative ought rather to have been exercised in conjunction with both houses of parliament: but we should suppose that what your Majesty has thought fit to do in this respect by the advice of your Majesty's privy council must be legal, and consequently that the operation of the words above cited from your Majesty's said proclamation is complete and incontestable so far as the true meaning of them can be ascertained. But if your Majesty in your royal wisdom should interpret them in a different sense from that in which they have been generally understood, and should declare that they were not meant to introduce the whole body of the laws of England that were not in their nature local, but only to introduce some particular parts of them that were more immediately beneficial to your Majesty's subjects, agreeably to the sense in which they were understood by your Majesty's attorney and sollicitor general in April 1766;[1] or, if your Majesty should declare that they were not meant to introduce immediately any part of the laws of England into those provinces, but only to promise and assure your Majesty's British subjects that your Majesty would, in due time and place, and by particular and express promulgations, introduce some select parts of the laws of England that were more immediately conducive to their welfare and satisfaction; in either of these cases we beg leave to submit it to your Majesty's consideration, whether the ordinances above-mentioned, of the 17th of September and the 6th of November, can be deemed of sufficient validity to introduce any part of the laws of England that were not already established by your Majesty's said proclamation. Our reasons for doubting this are as follows:

By the King's commission to the governour a certain degree of

Your Majesty by your commission to General Murray, dated the 21st day of November in the 4th year of your Majesty's reign, to be governour in chief of this province, was pleased

[1] Referring to the report of Yorke and de Grey. See p. 251.

legislative authority is communicated to him, to be exercised with the advice and consent of the council and assembly;

to delegate unto him a certain limited legislative authority, to be exercised by him by and with the advice and consent of your Majesty's council of the province, and of the general assembly of the freeholders and planters in the same therein directed by your Majesty to be summoned, to wit, an authority to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of the said province, not repugnant, but, as near as may be, agreeable to the laws and statutes of your Majesty's kingdom of Great Britain. But your Majesty did not in any part of the said commission delegate either this or any other legislative power to your said governour to be exercised by him with the advice and consent of the council only, without the concurrence of an assembly. Now no assembly of the freeholders and planters has hitherto been summoned; consequently all the ordinances that have hitherto been made, so far as they have a legislative tendency, have been made without any warrant or authority from your Majesty's commission to your governour, and perhaps may, upon that account, be justly contended to be null and void.

but none to be exercised without the consent of an assembly.

If this be so, the words in the ordinance of the 17th of September 1764, which direct the court of King's Bench to determine all civil and criminal causes agreeably to the laws of England, and the other words of that ordinance, and of the ordinance of the 6th of November following, which purports to introduce the laws of England into this province, can have no legal operation to change the laws which were then subsisting in the country; and the ordinance of the 17th of September must be considered only as an executive act of government, erecting and constituting courts of judicature in the province for the administration of the laws in being, whatever those laws might be; and in this view it is certainly a legal and valid ordinance, because your Majesty had, by an express clause in your commission aforesaid, given your said governour full power to erect such courts with the advice and consent of the council only.

A very limited legislative authority is given to the governour by a private instruction, to be exercised by the advice and consent of the council only.

It is true indeed that your Majesty did give a private instruction to your late governour, purporting to communicate to him a certain degree of legislative authority to be exercised by him, by and with the consent of the council only, without any assembly; to wit, *an authority to make such rules and regulations as shall appear to be necessary for the peace, order, and good government of the said province, taking care that nothing be passed or done that shall any ways tend to affect the life, limb, or liberty of the subject, or to the imposing any duties or taxes.*

A doubt concerning the legality of this method

But we submit it to your Majesty's consideration, whether a power of this

of communicating a legislative authority.

kind can be communicated by any other instrument than letters patent under your Majesty's great seal of Great Britain, publicly read and notified to the people, to the end that the acts done by virtue of them may have a just claim to their obedience; for otherwise they may alledge that they are faithful and loyal subjects to your Majesty, and ready to pay obedience to every thing that your Majesty's self shall ordain, and likewise to every thing that shall be ordained by your Majesty's governour by virtue of powers properly communicated to him by your Majesty; that consequently they will obey him in every thing he shall do by virtue of the powers conveyed to him in your Majesty's commission which has been publicly read to them; but that in the things not warranted by the said commission, but said to be done in pursuance of certain private instructions that have not been made known to them, and which they are therefore uncertain whether he has received or not, they cannot presume that he acts by your Majesty's authority, and therefore are not bound to obey him. For this reason we humbly apprehend, that the private instruction before-mentioned cannot have legally conveyed to your Majesty's governour and council the legislative authority mentioned in it, small and narrow as it is.

The legislative authority mentioned in this instruction is too small to warrant the introduction of the laws of England.

But secondly, if a private instruction should be deemed to be a legal method of communicating a legislative authority, yet the power conveyed to the governour and council of this province by the instruction above-mentioned is much too confined an authority to warrant the general introduction of the English laws; particularly of the criminal laws, which all affect either life, or limb, or liberty; and the process of arrests of the body in civil suits for debt and trespass; and the power of committing persons to prison for contempts of court committed in the presence of your Majesty's judges; and that of granting attachments of the body for disobedience or resistance to the orders of your Majesty's superiour courts of judicature, when such acts of disobedience or resistance are committed out of court; which all immediately affect the personal liberty of of your Majesty's subjects in this province.

These are the reasons upon which, we conceive, the legality of the introduction of the laws of England into this province by the provincial ordinances above-mentioned may be called in question.

But these reasons have no relation to the other high instruments of government by which these laws may be supposed to have been introduced here, namely, the articles of capitulation in 1760, the 4th article of the definitive treaty of peace, and your

Majesty's royal proclamation of the 7th of October 1763. If these instruments have introduced the laws of England, they may have a legal existence in this province, notwithstanding the want of legal authority in the two provincial ordinances above-mentioned. But if your Majesty should determine that these instruments have not introduced the laws of England into this province, then, as we conceive, it will follow, that the whole body of those laws has not yet been legally introduced into it, but that those parts only of the laws of England have a legal existence in this province which are contained in the acts of parliament above-mentioned, which by their own import and operation, and without needing any new instrument of government to introduce them, extend to all your Majesty's dominions in America.

Inconveniencies arising from the present state of the laws and administration of justice.

We will now proceed to lay before your Majesty the principal inconveniencies, under which the Canadians labour from the present state of the laws and methods of administering justice in this province.

The uncertainty of the laws.

The first and greatest inconvenience arising from the present state of the laws in this province is the uncertainty of them, and the doubts that are entertained concerning the legal continuance of the ancient laws and customs that were observed here in the time of the French government. This is a cause of great uneasiness and anxiety to persons of both nations in many of the ordinary transactions of life; insomuch that it would be a great improvement of the condition of the province if either the English laws, or the old laws and customs of the country, were established by some new act of government, conceived in the most clear and positive words that can be made use of, with an express exclusion or abolition of the other laws, which may be imagined to have hitherto been in force. For by this declaration in favour of either of the systems, your Majesty's subjects would know what they had to expect for themselves and their families with respect to their inheritances, purchases, mortgages, contracts, and other civil rights and privileges from the operation of the laws; and would in consequence thereof proceed to make such regulations of their affairs by particular agreements and settlements, and by their last wills and testaments, as would protect them against the inconveniencies which they might apprehend themselves to be exposed to from such parts of the established system of laws as they did not approve. We do not mean by this to insinuate, that such an immediate establishment of one of these systems of law, to the intire and express abolition and exclusion of the other, would be the best remedy that could be applied to this evil; but only to represent to your Majesty

our idea of the greatness of this inconvenience, since even such a cure would be desireable. What is the best remedy that can be applied to this evil, is, as we conceive, a point of the greatest difficulty, and fit only to be determined by the wisdom of your Majesty's councils; though in obedience to your Majesty's commands, we shall humbly suggest to your Majesty, in the subsequent part of this report, some of the different methods that, as we apprehend, may be taken for this purpose, with the advantages and disadvantages with which they will be respectively attended. But before we proceed to consider this arduous subject, we beg leave to lay before your Majesty some other and much smaller inconveniencies arising from the present state of the courts in this province, together with a plan for the administration of justice for the time to come, which we humbly conceive to be likely in a great measure to remove them.

Other inconveniencies attending the present state of judicature in this province.

These inconveniencies are the expensiveness of law proceedings, which is considerably greater than in the time of the French government, the tediousness of them, and the severity of the present method of proceeding in civil suits by arresting and imprisoning the defendant's body.

The expences of law proceedings.

The expences attending law-suits arise evidently from two different sources, the fees of the officers of the courts of justice, and those of the attornies and advocates whom the parties employ in the management of their causes.[1] The former are capable of being properly regulated, as the persons to whom they are due are all servants to your Majesty, and under the immediate controul of your Majesty's governour and council; and measures have been already taken to ease your Majesty's subjects in this province of some part of these fees: your Majesty's chief justice and clerk of the crown have remitted those that used to be taken by them in the supreme court; and those of the attorney-general for the conduct of criminal prosecutions have always been charged to your Majesty: and if those which are taken by the clerk of the supreme court for the civil business

[1] A complete return of the fees exacted by the various officers in the different departments of the King's service in Quebec Province, was prepared, under an order of the Lt.-Governor, and is given in Canadian Archives, Q 5-2, pp. 445-466.

When this return, together with Carleton's observations upon the system of fees, had been transmitted to Colonial Secretary Hillborough, he made the following reply:—"It is His Majesty's firm Purpose that every proper Measure shall be taken to remedy those Evils, and to remove that Scandal and Reproach brought upon His Majesty's Government, and the consequential unfavourable Impressions made upon the Minds of His Majesty's New Subjects, which are the Effects of the little Attention given by the Patentees in this Kingdom to Ability and Integrity in the Appointment of their Deputies; and of the shamefull Frauds and Exactions of exorbitant Fees which are practised, and of which you so justly complain. To this End I have received His Majesty's Commands to lay your Letters upon this Subject before the Lords of Trade for their Consideration, and to recommend such Remedies as their Lordships shall judge best adapted to redress these Grievances; and in the mean Time His Majesty trusts you will make some temporary Regulation to restrain the Fees of Office within some settled and certain Bounds, so far as Right and the Nature of the Case will admit, and also for punishing with Rigour those who shall be guilty of Exaction, or other mal-practice in their Offices." Q 5-2, p. 602.

that is transacted there, and by the provost-marshal, or sheriff, and his bailiffs, for their summonses, arrests, and other ministerial business done by them in the course of the proceedings, and those which are taken in the court of Common Pleas, or the quarterly and weekly courts of the justices of peace, by the several officers of those courts, are found to be unreasonable, it will be easy to reduce them to a more moderate standard by a provincial ordinance for that purpose, if your Majesty will condescend to make such a reasonable addition to the salaries of these several officers as shall be a compensation for such diminution of their fees. The other cause of the expensiveness of law-suits is the rate of the fees of the attornies and advocates. These fees, it is evident, are not capable of a like reduction with the former, but must always be such as the parties and their lawyers shall agree upon; since it is the natural right of every man to set what price he pleases upon his labour. All that can be done to keep those fees from growing exorbitant is to prevent a monopoly of law business in the hands of a few lawyers, who might thereby be enabled to exact unreasonable rewards from their clients by the necessity the people would be under of either employing them upon the terms they thought proper to demand, or letting their business remain undone: and this has been already done by your Majesty's wisdom and indulgence in permitting Canadian notaries, attornies, and advocates to practise their respective professions notwithstanding their continuance in the profession of the Romish religion.[1]

Yet when every thing is done that can be done to diminish the expence of law proceedings, it is probable they will still be more expensive than in the time of the French government; which ought not to be a matter of surprize, since the prices of corn and provisions, and of all sorts of labour, are almost double of what they were at that time.

The slowness with which they are conducted upon the present establishment.

The next inconvenience arising from the present establishment of the courts of judicature complained of by the Canadians is the tedious length of law-suits. This is owing to the unfrequency of the terms or sessions of the supreme court of judicature, and of the court of Common Pleas, which sit only three times a year at Quebec and twice at Montreal. In the time of the French government there were three royal courts in the three several districts of Quebec, Three Rivers, and Montreal, vested with full power to determine all matters both criminal and civil; in each of these courts a judge appointed by the French king administered justice, and a king's attorney prosecuted on behalf

[1] See Ordinance of Sept. 17th, 1764, and notes thereon; p. 205.

of the crown: and they used for that purpose to hold two courts in every week throughout the year, except about six weeks in the months of September and October, and a fortnight at Easter; and besides these courts held regularly every week, they would sit on other days of the week, if the business before them made it necessary. From these courts there lay an appeal to the highest court of the province, which was called the superiour council; and this high court also sat every week: so that the difference between the expeditious methods of obtaining justice in the time of the French government, and the slowness of the proceedings upon the present establishment, is very striking in the eyes of the Canadians, and is esteemed a very considerable inconvenience.

Besides the usual ill consequences arising from the want of dispatch in law-proceedings, this unfrequency of the sessions of the superior courts of judicature has been a principal cause of the increase of the fees of the Canadian attornies and advocates: for, as their opportunities of pleading causes happen so much seldomer than formerly, they endeavour to make up, by the value of the fees they now receive in the three sessions of the court of Common Pleas, the advantages they formerly derived from the number of them in the time that the French king's courts sat every week.

There is indeed in the present establishment a court of justice in each district of the province that sits every week for the dispatch of business. These are the courts of the justices of peace. This was a very judicious institution, and well suited to the circumstances and disposition of the people. Yet it is liable to some objections. For, in the first place, the justices of the peace, who are the judges of these courts, are not much skilled in judicial proceedings; and, secondly, the same justices not attending constantly at these sessions, it is often necessary, where a matter cannot be decided at one session, but is adjourned to the next, to repeat all the proofs and arguments before the justices at the second session, which had been produced at the former session before the other justices who happened not to be now upon the bench, which occasions an increase of expence and trouble: and, lastly, their jurisdiction extends only to such disputes as relate to sums of money that do not exceed ten pounds. In all contests for greater sums the parties are obliged to have recourse either to the quarterly courts of the justices of the peace, or to the courts of King's Bench and Common Pleas, where the sessions are held but three times a year.

Imprisonment for debt.

The next inconvenience is the severity of the present method of proceeding in civil actions, by arresting and imprisoning the defendant's body. This, by filling the gaols with unhappy debt-

ors, increases the number of the poor and helpless, and makes the families of the debtors, as well as the debtors themselves, become oftentimes a burden to the publick; and it is generally thought by the Canadians to be an unnecessary degree of harshness.

To remedy these several inconveniencies we beg leave to recommend to your Majesty the following plan for the administration of justice in this province for the time to come; which we have formed in imitation of that which was in use in the time of the French government.

A plan for the administration of justice in this province.

That this province should be again divided into the three districts of Quebec, Three Rivers, and Montreal, as in the time of the French government: which might be called the Shires of Quebec, Three Rivers, and Montreal; and each of these three districts should have separate officers of justice: that a Royal court of judicature should be established in each of the three towns of Quebec, Three Rivers, and Montreal, which are the capital, or rather only, towns of those several shires or districts: and that each of these courts shall consist of one able English judge, appointed by your Majesty, and invested with full powers to hear and determine all matters, both criminal and civil, arising within his jurisdiction, just as your Majesty's chief justice of the province is impowered to do upon the present establishment throughout the whole province.

Three royal judges, one to each shire or district of the province.

These judges to be English barristers at law, of five years standing at the bar.

These English judges should be barristers at law, of at least five years standing at the bar; and they should be such as, besides their skill and knowledge of the law, had a competent knowledge of the French language. And further, to enable these English judges more readily to understand the testimonies of the French witnesses, that would so often be examined before them, and likewise to comprehend the nature and extent of such of the antient laws and customs of the country as your Majesty shall think fit to be either continued or revived, we conceive, that it would be convenient to give each of them a Canadian lawyer for an assessor, or assistant to them in the decision of causes: but the Canadian assessors should have no vote or authority to decide the causes in conjunction with the English judges; but should only assist them with their opinion and advice, the whole power of finally deciding them being vested solely in the English judges. This employment of the Canadian lawyers, even in this subordinate capacity of assistants and advisers, would be thought a very gracious indulgence in your Majesty by all your Majesty's new subjects; and many of them, to whom it has been mentioned, have expressed an entire approbation of it. If they had an equal degree of authority with the English judges in the final decision of causes, they would be much more likely than the

Each English judge should have a Canadian lawyer for his assessor, or assistant;

but the sole power of deciding the causes should be vested in the English judges.

English judges to abuse it, by reason of their connections in the country, and the enmities and partialities that these connections would give birth to. And besides, there are other reasons, which would make it inexpedient to trust your new Roman catholick subjects, so lately brought under your Majesty's allegiance, with so great a degree of power. These judges and their assistants should hold their courts every week throughout the year, excepting one month at Christmas, one week at Easter, and another at Whitsunday, which are the three great seasons for holidays observed by Christians. And they should sit on the Tuesday or Wednesday of every week, that the contending parties and their witnesses might not be under a necessity of travelling on Sundays to attend them. If the use of grand juries should be thought fit by your Majesty to be continued in criminal prosecutions, these judges should take cognizance of criminal matters (that is, of such parts of the criminal proceedings as required the attendance of grand juries) only once a month, that the inhabitants might not be too much diverted from the care of their private affairs by their attendance in the courts as grand jurymen. But the other steps of all criminal proceedings that do not require the presence of grand jurymen, and, if the use of grand juries was laid aside, the whole of those proceedings should be carried on in weekly sessions, as well as all the civil business of the district.

The judges should hold court once a week, with a very few exceptions.

The method of proceeding in these courts in civil actions might be as follows. The plaintiff might bring a declaration or plaint, in writing, into court, which might be either in the French or English language, as he thought proper, praying the process of the court to cause the defendant to be summoned to answer it; but not to be arrested by his body. This plaint should be read to the judge in open court, in order that he should determine whether or no it contained a good cause of action; and, till he approved it, no summons should be issued upon it. If he approved it, he should order it to be filed amongst the records of the court by the clerk or register of the court, and should award a summons to be sent to the defendant to come and answer the plaintiff's demand, at such a time as he, the judge, should therein appoint. If he neglected to come at the time appointed by the summons, without any good reason for his neglect, he should be condemned to pay the plaintiff a moderate sum of money, to be ascertained by the judge, as a compensation to him for his expence and trouble in attending the court, at the time appointed by the summons, to no purpose; and he should be summoned to come and answer the plaintiff's demand on another day. If he then also refuse to come, judgment should go against him by default. When the defendant appeared, he should make his

Method of proceeding in these courts.

answer to the plaint of the plaintiff in writing, and either in the French or English language, as he thought proper: and this answer should be filed amongst the records of the court. The judge should then himself interrogate the parties concerning the facts, in their account of which the parties seemed to differ, and which appeared to him to be material to the decision of the cause: and these interrogatories and the answers of the parties should be reduced to writing by the judge, or by the clerk of the court from the words dictated to him by the judge. When the judge had thus found out in what facts material to the decision of the cause the parties differed, he should himself state these facts in writing, and declare that it was necessary for him to be informed, by proper testimony, whether they were true or false; and should ask the parties whether both, or either of them, desired that he should inquire into the truth of these facts by means of a jury, or by examining witnesses, or other proofs himself.

Juries to be summoned, if the parties desired it. They should be paid for their attendance.

If both, or either of the parties, desired to have a jury, a jury should be summoned to attend, at such following session as the judge should appoint. This jury should be paid for their attendance by the party that desired to have a jury; and if both desired it, then equally by both parties. They should receive five shillings sterling a man. For at present it is a subject of complaint among the Canadians that they are taken from their necessary occupations to attend upon juries (which is by no means an agreeable employment to them) without any consideration, for it: and this, if it happened every week without any compensation, would be thought, and perhaps justly, a very heavy burden. But for a reward of five shillings they will serve with great alacrity. These juries should be appointed in nearly the same manner as special juries are in England; that is, the ministerial officer,

Manner of chusing them.

that executed the process of the court, should return to the court a list of four times as many persons qualified to be jurymen as were necessary to constitute a jury; that is, if a jury was to consist of twelve men, a list of forty-eight persons so qualified; and then each party should strike out twelve of the names contained in this list: and then the names of the remaining jurymen contained in it should be set down in a new list in an alternate order; that is, first one at the nomination of the plaintiff; then one at the nomination of the defendant; then another at the nomination of the plaintiff; and then another at that of the defendant; and so on: and these persons (whose names were thus set down in this new list, and who would be enough in number to constitute two juries) should all be summoned to attend the court on the day appointed for the trial of the cause, and should be called over in the court in the order in which their names were

set down in the new list; and the first twelve, or other number sufficient to make a jury, that appeared in the court should be the jury to try the cause. By this method of chusing a jury the disagreeable and captious practice of challenging jurymen would be avoided, which is apt to give rise to animosities between the persons challenged and the parties who object to them.

A majority of the jury should carry the verdict.

Of the jury so chosen a majority should have a right to determine the verdict: the present rule, of requiring an absolute unanimity amongst all the jurymen, being evidently absurd and unnatural, and, amongst other inconveniencies, productive of one of a very important nature, which is the perjury of some of the jurymen in every third or fourth cause: for it happens at least so often that there is a real difference of opinion amongst the jurymen, and that some of them go over to the opinion of the rest, in opposition to their own sentiments, and contrary to the oath they have taken to give a true verdict according to the evidence; which means, as we presume, according to their judgment of it. And it has sometimes happened, that a great majority of the jurymen has gone over to a small but resolute minority. This therefore calls loudly for a reformation; and more especially in a country where the natural and ordinary differences of opinion, that must frequently happen amongst jurymen, are likely to be greatly heightened by national and religious prejudices. If the agreement of twelve men should be thought necessary to establish the truth of a fact, it would be necessary to impannel twenty-three jurors. But perhaps a bare majority of twelve men may be sufficient to answer all the purposes of justice in civil matters.

In criminal matters it might be proper to make the agreement of two-thirds of the jury necessary to the conviction of the accused person.

The juries should always give special verdicts.

And as the issues, or points of fact, that were to be proposed to the consideration of the jury, were to be drawn up in a minute and particular manner in words dictated by the judges of the courts, so the verdicts of the juries should be always special verdicts, stating the facts, as the jury find them to have happened, with great exactness and particularity. This would prevent juries from encroaching upon the province of the judges, and determining points of law by means of the short and general issues of "*Guilty or Not Guilty*," "*He did or did not undertake*," "*He does or does not owe the sum demanded*," and the like, that oftentimes involve points of law mixed with matters of fact, and thereby give juries an opportunity of committing these irregularities. Whenever these things happen (whether it be from the ignorance or want of discernment in the jurymen, or from their

wilfulness or partiality) it is certain that a real injury is done to the losing party, whose right it is, according to the laws of England, to have the points of law, upon which his cause depends, determined by the learned and able judges whom your Majesty has appointed to fill your courts of justice, as much as it is to have the matters of fact in the cause determined by a jury of honest freeholders in the neighbourhood.

Examination of witnesses.

The witnesses examined in the trial of a cause should be examined *vivâ voce* in open court, in the presence of both parties, or their attornies and advocates; and cross-examined, if the adverse party thought proper: and should not be allowed to deliver their testimony by written depositions or affidavits taken in private; not even in those trials which were carried on without a jury; unless by the consent of both the parties, or by the particular direction of the judge, upon very strong reasons for so doing, moved and debated in open court.

Execution against the defendant's goods and lands.

When judgment was given for the plaintiff in a civil action, a writ of execution should go against the goods and lands of the defendant, but not against his person; directing the ministerial officer that executed the process of the court, to levy the sum of money awarded to the plaintiff by the judgment, upon the defendant's moveable goods and chattels; and, in case they are not sufficient for the purpose, then, but not otherwise, to sell part of his lands, to produce the remainder of the sum. And if the executive officer could not find a sufficient quantity of either moveable or immoveable property belonging to the defendant to raise the sum awarded, and the judge was of opinion, upon affidavits made before him to that purpose, that there was reasonable grounds to suspect that the defendant had secreted or concealed some of his effects, he might require him to deliver in to the court, upon oath, an exact schedule of all his estates and effects of every kind; and if he refused so to do, might commit him to prison till he complied. And if he omitted any part of his effects to the amount of twenty pounds sterling, in the schedule so delivered in to the court, he should be liable to the penalties of perjury.

Upon proper grounds the defendant might be required to deliver in to the court, an exact schedule of his estate and effects upon oath.

Costs.

The judge should have a power of awarding reasonable costs to either party, according to his discretion.

Sheriffs to the three several shires, or districts.

It would be convenient to have a separate ministerial, or executive, officer, to each of the three districts of Quebec, Three Rivers, and Montreal, to be called a Sheriff, which is the common name for such an officer in England, instead of one Provost-marshal for the whole province.

King's attornies each of the three courts.

And it would be necessary for your Majesty to have an attorney in each of these courts, to prosecute for your Majesty in all

criminal cases, and in suits concerning your Majesty's revenue, and in all other suits in which your Majesty's interest is concerned. If your Majesty should not think proper to appoint an officer expressly for this purpose, the power of carrying on these prosecutions for your Majesty might be vested in the clerk, or register, of the court; just as in your Majesty's court of King's Bench in England, the clerk of the crown, (whose principal duty is, to register, or enter, the pleas of the crown in the records of the court) is likewise attorney of your Majesty in that court, and prosecutes in your Majesty's behalf. But we submit it to your Majesty, that it would be convenient, and more suitable to the honour of your Majesty and the dignity of the court, to have a separate officer for this purpose to be called your Majesty's Attorney for that district, as there was in the time of the French government.

Appeals from these courts to the governour and council, and from thence to the King in council.

From these courts there should lie an appeal to the governour and council of the province, and from thence to your Majesty in your privy council. One great use of the appeal to the governour and council would be to preserve an uniformity in the law throughout the whole province, which otherwise might gradually become different in the three different shires or districts of it, by the difference of the decisions that might be given in these several courts of justice, if they were intirely independant of each other, and subject to no common superiour council that might correct the errors of their proceedings.

And for the same reason the decisions of these courts should not be deemed to form precedents of sufficient authority to determine any subsequent disputes; but this authority should be ascribed only to those cases which had been decided by the governour and council of the province upon the appeals brought before them from these shire-courts, or by your Majesty's self in your privy council.

And in order that your Majesty's governour and council might not be destitute of the advice of persons skilled in the laws to assist them in the determination of the appeals that should be brought before them, it might be expedient that your Majesty's judges of these three courts, and perhaps also your Majesty's three attornies in them, should be made members of your Majesty's council of the province; by which means all the best law abilities in the province would be employed in making these important decisions that were to carry with them the force of law: and with this view it might be proper to require your Majesty's judges and attornies of the courts at Three Rivers and Montreal to attend the governour at Quebec for one month about Christmas time, in order to assist at the decision of these

appeals, which should therefore be reserved to this season of the year.

The nature of these appeals.

These appeals should be only, as they now are, of the nature of writs of error in England, to correct the errors in law committed in the courts of these shires or districts, and not to re-consider the facts in the cause, unless they had been settled by the judge alone without the assistance of a jury. Where this was the case, the parties might, if they thought fit, cause the evidence itself to be taken down in writing by the clerk of the court, and signed by the witnesses and judge, that it might make a part of the record, as it does upon the trial by a general court martial in England : and, upon the removal of this record before the governour and council, they might reconsider the whole matter, the facts as well as the law, and give such judgment upon it as they thought just ; but they should not admit any new evidence relating to it. Where the cause has been tried by a jury, the losing party might, if he thought proper, have it tried over again by a second jury, consisting of twice as many jurymen as the first jury ; and the verdict of this second jury should be final with respect to the matters of fact determined by it.

A second trial by a double jury.

When Gaspey shall be settled, a fourth judge might be sent thither, whose jurisdiction should extend over a district lying round about it, to be taken out of the district of Quebec, which is now immoderately large. Such an establishment would be of great convenience to the inhabitants of that part of the province.

These are the outlines of the plan which we humbly beg leave to recommend to your Majesty for the administration of justice, and which, we are confident, would be of great advantage, and give very great satisfaction to your Majesty's Canadian subjects, and effectually remove many of the inconveniencies of which they now complain.

It remains that we consider the first and greatest inconvenience above-mentioned, which arises from the uncertainty of the law in the present condition of the province, and that we set before your Majesty the different methods by which, as we conceive, this inconvenience may be removed, and the laws of the province may be settled for the future upon a solid and permanent foundation.

Four different methods that may be taken to settle the laws of this province.

Four methods of doing this have occurred to us. The first is, to compose a code of laws for this province, that shall contain all the laws by which it is to be governed for the time to come, to the entire exclusion or abolition of every part both of the laws of England and the French laws that shall not be set down in the code itself.

The second is, to revive or re-establish the whole French law at once, to the exclusion of all the English laws, excepting those few which have been introduced by act of parliament, as above-mentioned, and a few more of the laws of England which are most eminently beneficial and favourable to the liberty of the subject, and to introduce these beneficial laws by a particular ordinance or proclamation, published in the province, in order to make them fully known to the Canadians. Such might be an ordinance to take away the use of the question, or torture, in criminal prosecutions, to change the cruel punishment of breaking on the wheel into hanging or beheading ; and to introduce the substance of the English law relating to the writ of *habeas corpus*, by declaring that no person in the province should be committed to prison, or detained in prison, by the order of any magistrate without a warrant in writing under the hand of the magistrate, expressing particularly the cause of his commitment or detention ; and that every man so detained in prison should, if he desired it, be brought before one of your Majesty's judges in the province, and either set at liberty, bailed, or remanded to prison, as the cause of his imprisonment, expressed in the warrant by which he is detained in prison, should require. Such an ordinance might be thought to fulfill, in a great measure, the promise given to your Majesty's British subjects by those words in your Majesty's proclamation above-mentioned, *of the enjoyment of the benefit of the laws of England*, supposing that your Majesty should think proper to determine that those words contain only a promise.

The third method of settling the laws of this country, so as to continue to the Canadians the use of several of their ancient customs, is to make the law of England the general law of the province, with an exception of those particular subjects concerning which your Majesty shall please to permit the former customs of the country to subsist, and with respect to those subjects to let the ancient laws of the country subsist in the manner they did at the time of the conquest, and without attempting to reduce them to writing, and enact them anew by particular ordinances, expressly setting them forth in all the extent in which your Majesty thought proper to let them continue.

And the fourth method of doing this would be to make (as in the third method) the law of England become the general law of the province, with an exception of those particular subjects, or heads of law, concerning which your Majesty shall please to permit the former customs of the country to continue; and with respect to those subjects, to enumerate and set forth

at length, in an ordinance or proclamation to be made for that purpose, the particular customs which your Majesty should think fit to be continued, to the exclusion and abolition of all other customs that should not be contained in the said ordinance or proclamation.

Advantages and disadvantages with which the first method of settling the laws will be attended.

The first of these methods of settling the laws of this province, namely, that of making a code of all the laws by which it shall be governed for the future, to the exclusion of all the laws both of England and France that are not contained in it, would certainly be the most troublesome in the execution to your Majesty's ministers and servants, both in England and in this province. And further, we conceive that it would be objected to by some of the Canadians, who are the most difficult to please, as a rash and dangerous experiment, to which the persons your Majesty should think proper to employ in the compiling this code would be by no means equal. They would frame their objection to such a project in some such manner as this : 'That to reduce the whole 'law anew into writing, with a rejection of a great part of it as 'useless in the opinion of the compilers, is a task of such extra-'ordinary difficulty, that not only no person in this province is 'fit to undertake it, but even the ablest lawyers in the parliament 'of Paris, if they were to devote their whole time and attention 'to it, would hardly be able to execute it properly ; that if any 'thing of this kind is attempted here, many important things 'will most certainly be omitted, and others be too concisely, 'imperfectly, or obscurely expressed; that in such a code no part 'of the ancient laws of this province ought to be omitted, not-'withstanding some of them may never have been put in execution 'here ; for that those laws are not less a part of the law of this 'country than those which have been often put in practice ; 'and that the only reason why they have not yet been executed 'is, because the objects of them, that is, the cases to which they 'relate, have not yet arisen ; and that when these cases shall arise, 'here is a wise law already provided beforehand to decide them; 'and that therefore no part of the custom of Paris, which was 'truly and properly the law of this province, ought to be left 'out of any code that shall be made for the government of it : 'and further, that there is a strong mutual connection between 'the different parts of this system of law, that makes it very 'difficult to change or abrogate any part of it, under a notion of 'its being useless, without weakening or rendering ineffectual 'other parts of it which the compilers may esteem useful ; and 'that therefore the only safe way is to let it stand as it is ; and 'that, in this view of permitting the whole of it to continue, 'there is no need of a code to express it over again in new words ;

'that it is already expressed in writing in the best manner pos-'sible in the text of the custom of Paris itself and in the learned 'treatises of Monsieur Ferriere[1] and other writers upon it, and 'in the decisions of the parliament of Paris and of the superiour 'council of this province, upon the cases that have been con-'tested before them; that indeed such a new code might be of 'some convenience to an English judge to save him the trouble 'of studying or consulting the French law-books, but that it 'would be a most dangerous and pernicious attempt to the 'rights and liberties of your Majesty's Canadian subjects.'

These are the objections which will certainly be made by some of your Majesty's Canadian subjects to the measure of compiling a new code of laws for this province, which we have stated to your Majesty at great length, that they may have all the weight with your Majesty which they may deserve. At the same time we beg leave to inform your Majesty, that we believe that these objections will be made only by a few persons in this province, and that the bulk of your Majesty's new Canadian subjects will be very well satisfied with such a code, and this even though it should in a great measure be taken from the laws of England, provided only that a few of the most important of their ancient laws and customs, and that most nearly affect their property and the future situation of their wives and children, be contained in it.

On the other hand, the advantages that would arise from this measure of compiling such a code of laws for this province would, as we conceive, be these that follow.

In the first place, the English judges, who will, as we presume, always be employed to administer justice in this province, would have a short and plain rule to go by, which they would easily be able to make themselves masters of, and would not be liable to be puzzled and misled by artful French lawyers, partially citing and misrepresenting and misapplying the doctrines and cases contained in the French law books.

And in the second place, the English inhabitants in general would have the satisfaction of knowing easily and certainly what the laws of the province were, upon what conditions they purchased lands or houses, what rights of alienating or devising them they thereby acquired, what duties to your Majesty, their lords or their tenants, they were bound to, and in what manner their wives and children would enjoy their possessions after their decease.

These would be no inconsiderable advantages resulting from the composition of such a code, even though done in a very

[1] The reference is doubtless to the work entitled: "A comparison between the Code, Digest, and Novels, and the French Law & Custom of Paris, by Monsieur Ferriere, Professor of Law at Paris; in Six Volumes in Quarto."

imperfect manner. But there is another and greater advantage with which, as we conceive, this measure would be attended, which is the removing from the minds of the Canadians all idea of the excellency of the French laws and government, and of the superiour skill and ability of French lawyers and judges, bred in the parliament of Paris, and consequently of the happiness of having their law-suits decided by them. For we apprehend that, as long as the French laws and customs subsist at large without being reduced into a code, so that the several French law-books, books of reports, and edicts of the French king are the books of authority upon the subject, to which recourse must be had continually in the decision of points of law, so long will the people of this province retain a reverence for those edicts, reports, and other law-books, and for the authority of the French king who made the edicts, and for the parliament of Paris that has made the decisions reported in the books of reports, and the other learned French authors who have composed the other treatises on this subject ; and this reverence will be accompanied with a continuance of their liking for that government from which these good laws and edicts and law-books proceeded, and under which they might be most ably administered, and consequently with a secret wish to return to that government, that is, to return to their subjection to the French king ; whereas, if they continue to enjoy the most important of their ancient laws and customs under a new name, and expressed in a stile and phrase somewhat different from the former, and carrying with it the stamp of your Majesty's authority, the idea of their former sovereign, and of the parliament of Paris, and of the wise lawyers that compose it, would by degrees wear out of their minds, and they would think of nothing upon these occasions but the king of Great Britain and his code, and the great favour he had shewn them in permitting their principal laws and customs to continue, and giving them the express sanction of his royal authority. This we take to be a very capital advantage attending this measure of compiling a code of laws.

As to the inconvenience that might arise from the omissions or imperfections of this code (for we readily admit that it would be very imperfect) it must be observed, that they might be continually lessened and remedied by fresh ordinances, from time to time re-enacting those parts of the former laws and customs of this province which appeared to have been forgotten in the code, and which the governour and council thought worthy to be re-established: and in the mean time the code itself (imperfect as we suppose it to be) would still be sufficiently exact to determine all the common cases that occur in the ordinary course of human

affairs, such as the rules of inheritance in the direct line, the rules of dower, and of the husband's rights arising from the matrimonial contract, the usual rules about quitrents, alienation-fines, and other profits due to your Majesty and to other lords, the usual methods of investiture of lands by performing fealty and homage, and the like, which would be sufficient to prevent the country from falling into general confusion.

This code we suppose to contain the whole of the law by which the province is to be governed, criminal as well as civil, to the exclusion of the whole of the English law, as well as the French, except what was contained in the code itself, and the acts of parliament relating to the custom-house duties, and those few other statutes that expressly relate to this colony by name or sufficient words of description since the conquest of it, or which, though made before the conquest of it, yet extend to it by virtue of the general description of *all his Majesty's dominions now belonging to the crown of Great Britain, or that shall hereafter belong unto the same.*

These are the advantages and disadvantages with which, as we conceive, this first method of settling the laws of this province, by composing a code of laws for that purpose, would be attended.

Advantages and disadvantages of the second method.

The second method of settling the laws of this province, by reviving at once the whole French law, and introducing by an ordinance only a few of the laws of England that are most eminently beneficial to the subject, is evidently the shortest and easiest method that can be taken for this purpose; but it would be attended with the following inconveniencies.

In the first place it would have a tendency to keep up in the minds of the Canadians that respect for the laws of France, and the wisdom of the parliament of Paris, and the excellence of the French government, which has been above described, and which it would be one of the principal advantages resulting from the former measure, of compiling a code of laws, to extinguish.

In the second place it would give disgust to the English inhabitants of this province, who are fond of the laws of England and desirous of having the greatest part of them continued, and think they have a right to the enjoyment of them upon two distinct grounds.

In the first place, they think that every country that becomes subject to the crown of Great Britain (whether by conquest, exchange, or otherwise) becomes immediately subject to the laws of England, and that the laws by which it was formerly governed become immediately and *ipso facto* void and of no effect, being superseded by the laws of England without the aid of any act of parliament or royal proclamation for that purpose.

In this we presume they are mistaken; since both the express declarations of the law-books, and those of your Majesty's attorney and sollicitor general in their report concerning this province, made in the year 1766,[1] and the dictates of natural reason inculcate a quite contrary doctrine, to wit, that the laws of the conquered people subsist in their full vigour till the will of the conquerour shall expressly change them. However this opinion, though not well grounded, is pretty general among the English inhabitants of this province.

And in the second place, they say, that, supposing that the laws of England were not of course introduced into this province by the very conquest itself and the subjection of the country to the crown of Great Britain, yet that they have been expressly introduced by your Majesty's proclamation of the 7th of October 1763, in the words that have been mentioned in the former part of this report; in which your Majesty assures them, that they may confide in your Majesty's royal protection for the enjoyment of the benefit of the laws of England.

Advantages and disadvantages of the third method.

The third method of settling the laws of this province, by making the laws of England the general basis of them, and permitting the Canadian customs to continue with respect only to some particular excepted subjects, and this by a general reference to the French law-books in which those customs are contained, without attempting to enumerate and express them anew, would also be a very short and easy one to your Majesty's ministers and servants both in England and in this province; and will be very agreeable and satisfactory to your Majesty's British subjects in this province. Yet it will be attended with the following inconveniencies.

By preserving a considerable part of the French law in the lump, or by a general reference to the French law-books that contain it, it will in some degree keep up in the minds of the Canadians that reverence for the laws and lawyers of Paris, and that consequential opinion of the happiness of being subject to the French government (as being that under which those laws may be most ably administered) which all persons that are zealously attached to your Majesty's government would naturally wish to see extinguished. But this objection will take place in a much less degree against this method, than against the last-mentioned, or second method, by which almost the whole body of the French laws would be revived.

Further, if this third method of settling the laws is pursued, some of the Canadians will probably make the two following

[1]The Report of Yorke and de Grey; see p. 251.

objections to it. They will say, in the first place, that the whole body of their laws ought to have been left intire, as there is a strong and well contrived connexion between all its parts, which makes it dangerous and detrimental to the welfare of the province to alter any of it. And, secondly, they will say, that, if any of the laws of England must be introduced here, they ought not to be introduced by general words, but by special ordinances, enumerating them, and setting them forth at full length, and in the French language, so that the Canadians may know and observe them. But these are objections which we believe will be made only by a few persons, and not by the generality of your Majesty's Canadian subjects.

Advantages and disadvantages of the fourth method.

The fourth method of settling the laws of this province, by making the law of England become the general law of it, with an exception of some particular subjects, or heads of law; and concerning those subjects to revive the ancient customs of the country by an ordinance or proclamation that should particularly set them forth and describe them in all the extent in which your Majesty should think fit to let them continue, without any reference to the law-books in which they were formerly contained, would be preferable to the third method in this respect, that by enumerating and describing, or reciting particularly, the several French laws and customs that were intended to be continued, it would cut off all connection, in the minds of the Canadians, with the French laws, lawyers, and judges, and the government under which they were maintained. The parliament of Paris, and the custom of Paris, and the French king's edicts would be no longer heard of, as being no longer of any authority; but the laws that were permitted to subsist must be cited in the words made use of by your Majesty to express them in the ordinance or proclamation which permitted their continuance. This would be a considerable advantage which this fourth method of settling the laws of this province would have over the third method; but it would be certainly somewhat more troublesome to your Majesty's ministers than that third method, and it would likewise be liable to many imperfections from the inaccurate manner in which the French laws and customs that were intended to be continued would probably be set forth; and it would be further liable to the two latter objections which might be made to the third measure, to wit, that it would give but an imperfect degree of satisfaction to some of the Canadians, by leaving them only a part of their ancient laws and customs, and that it would further cause them to complain of the general manner of introducing the laws of England without informing them exactly and particularly what those laws were, that they

might know how to obey them. But these are objections which, as we before observed, would probably be made by a few persons only, and not by the generality of your Majesty's new subjects.

Conclusion. Thus we have set forth to your Majesty at considerable length (but not greater, we hope, than the importance of the subject required) the different methods by which your Majesty's gracious intention of settling the laws of this province upon a solid and permanent foundation for the time to come, and of leaving to your Majesty's new Canadian subjects the enjoyment of some of their ancient laws and customs that are most necessary to their tranquillity and satisfaction, may be carried into execution, together with the several advantages and disadvantages with which we apprehend that each of them will be attended. To weigh these advantages and disadvantages against each other, and draw a final balance in favour of one of these methods in preference to the rest, or to find a new method preferable to them all, is a task to which we find ourselves unequal, and which we apprehend can be successfully performed only by the wisdom of your Majesty's counsels. By residing in the province we may have been able perhaps, by our observation of the state of things here, to furnish your Majesty with necessary information and materials for forming a decisive judgment upon the subject; and that, in obedience to your Majesty's commands, we have endeavoured to do faithfully and fully, and to the best of our abilities, in this report. That our endeavours may be acceptable to your Majesty, and may be esteemed rather according to the zeal and integrity by which they have been directed, than according to the degree in which they may be found to answer the high purposes to which they were intended to be subservient, is the earnest wish of,

Your Majesty's Most loyal and devoted
SUBJECTS AND SERVANTS.

N.B. The foregoing draught of a report, which was prepared by Francis Maseres, Esquire, his Majesty's attorney general of the province of Quebec, by order of Guy Carleton, Esquire, the governour of the said province, was delivered in to the said governour on the 27th day of February 1769, but had not the good fortune to be approved by his excellency. Another report[1] was thereupon drawn up by other hands agreeable to the governour's sentiments, in which his excellency has omitted the consideration of all the public acts and instruments whereby the English law has been introduced, or attempted to be introduced, into that province, together with some other matters contained

[1] Up to the present, this Report has not been discovered among the State Papers.

in the foregoing report; and instead of mentioning several different methods of settling the laws of that province for the future, with the several advantages and disadvantages that would probably attend each of the proposed methods, and leaving it wholly to his Majesty's wisdom to chuse one of the methods in preference to the others, as is done in the foregoing report, his excellency has thought fit to mention only one method of settling the laws of the province, which he strongly recommends to his Majesty, as the only way of doing justice and giving satisfaction to the Canadians, which is, to continue the laws of England with respect to criminal matters, but to revive the whole body of the French laws that were in use there before the conquest with respect to civil matters. The chief justice, William Hey, Esquire, and attorney general of the province, not thinking it either necessary or expedient to revive the whole body of the French laws in civil matters, but only those parts of them (which indeed are very considerable), which related to the tenure, alienation, dower, and inheritance of landed property, and the distribution of the effects of persons who die intestate, delivered in to the governour two additional papers, or lesser reports, containing their reasons for not wholly agreeing to the report made by his excellency. And these three reports were delivered to Maurice Morgan, Esquire, about the 12th of September 1769, to be by him carried to England, and delivered to his Majesty's secretary of state for America.[1] The additional paper, or lesser report, of the attorney general was intitled his opinion concerning the governour's report, and was as follows.

ATTORNEY GENERAL MASERES' CRITICISM OF GOVERNOR CARLETON'S REPORT ON THE LAWS OF THE PROVINCE[2]

The Opinion of the Attorney General of the Province of Quebec concerning the Report made by his Excellency Brigadier-General Carleton, the Governour in Chief of the said Province, to his Majesty in Council, concerning The State of the Laws and

[1] The three reports delivered to Morgan were those of Governor Carleton, Chief Justice Hey and Attorney General Maseres. In a communication from John Pownall, Under Secretary of State for the Colonies, to the Clerk of the Council in Waiting, he states that, by Lord Hillsborough's orders, he has transmitted to the Council certain papers sent to His Lordship by the Governor of Quebec, 18th September 1769, pursuant to the Order in Council of Aug. 28th, 1767. These papers were:—

"Report upon the State of the Laws and Courts of Judicature in the Province of Quebec."
"Appendix to said Report."
"Attorney General Maseres' Opinion concerning said Report."

Hillsborough, writing to Carleton on Jan. 18th 1770, reports that Morgan has arrived and delivered the papers which will pave the way for a speedy decision on the state of Quebec. The reports however are not found in connection with any of these despatches. That of Maseres, which follows, is given by himself in his volume of "Commissions" &c.

[2] Maseres, "A Collection of several Commissions and other Public Instruments, &c." p. 50.

the Administration of Justice in the said Province; with The Reasons of his Dissent from some of the Matters contained in the said Report.

Objections to the proposal of reviving the whole body of the French laws relating to civil matters.

Your Majesty's attorney general of this province approves that part of the foregoing report which gives an account of the constitution of the government of this province during it's subjection to the French king, and believes the said account to be true in most particulars; but he cannot assent to that part of the said report which suggests to your Majesty the expediency of reviving the whole of the French laws in civil matters, for the following reasons.

Inconsistency of such a measure with his Majesty's former plan of conduct with respect to the province of Quebec.

In the first place, he thinks it will be a deviation from that plan of conduct which your Majesty has hitherto thought fit to pursue with respect to this province ever since the conquest of it by your Majesty's arms in 1760, which he conceives to have been, to endeavour to introduce the English laws and the English manner of government into it, and thereby to assimilate and associate this province to your Majesty's other colonies in North America, and not to keep it distinct and separate from them in religion, laws, and manners, to all future generations. He conceives that if this latter system had been that which your Majesty had adopted, your Majesty would have given orders to your general, Sir Jeffrey Amherst, to whom this province was surrendered, to keep up, from the first moment of the conquest, all the courts of justice that were at that time in being in the colony, and even the several officers that composed them, upon the same footing on which they then subsisted. But as your Majesty's said general did immediately suppress all the former jurisdictions, and erect military councils in their stead, and in the articles of capitulation *refused to promise the inhabitants of this province the continuance of the custom of Paris, and the other ancient laws and usages by which they had been governed*, though requested in that behalf by the French general;—and as your Majesty did afterwards, in the fourth article of the definitive treaty of peace in 1763, engage to indulge your new Canadian subjects even in the delicate and important article of the free exercise of their religion, only *so far as the laws of England will permit;*—and as your Majesty, by your royal proclamation of the 7th of November[1] 1763, did encourage your British and other ancient subjects to go and settle in this and the other new-erected governments, and did promise them, as an excitement thereunto, *the immediate enjoyment of the benefit of the laws of England;*—and as your Majesty did afterwards,

[1] October, not November

by your commission of vice admiral of this province granted to General Murray,[1] *expressly introduce all the laws of the English courts of admiralty into this province;* and by your commission to the same gentleman to be captain general and governour in chief of this province, did direct him to summon an assembly of the freeholders and planters in this province, and in conjunction with them *to make laws and ordinances not repugnant to the laws of England,* by which it seems to be pre-supposed that the laws of England were already introduced there; and did in other parts of the said commission *allude to divers of the laws of England as being already in force here, as particularly the laws relating to the oaths of abjuration and supremacy, and the declaration against transubstantiation*—From these several exertions of your Majesty's royal authority in favour of the laws of England, your Majesty's attorney general of this province humbly collects it to have been your Majesty's gracious intention to assimilate this province in religion, laws, and government to the other dominions belonging to your Majesty's crown in North America; he therefore conceives that the immediate revival of all the French laws relating to civil suits in this province, in the manner suggested in the foregoing report, will have at least the appearance of a deviation from the plan of conduct which your Majesty has hitherto adopted, and of a step towards a preference of the contrary system of keeping this province distinct from and unconnected with, all your Majesty's other colonies in North America:[2] and this appearance he humbly conceives to be itself a considerable inconvenience, and very fit to be avoided, unless very strong reasons of justice or policy made such a measure necessary, which he does not conceive to be the case; for, on the contrary, he apprehends that the said total revival of the custom of Paris, and all the other French laws relating to civil suits, will be attended with the following additional inconveniences.

Other inconveniencies would follow from such a measure.

First inconvenience.

In the first place, it will make it difficult for any of your Majesty's English subjects to administer justice in this province, as it will require much labour and study, and a more than ordinary acquaintance with the French language to attain a thorough knowledge of those laws.

Second inconvenience.

In the next place, it will keep up in the minds of your Majesty's new Canadian subjects the remembrance of their former government, which will probably be accompanied with a desire to return to it. When they hear the custom of Paris, and the parliament of Paris, and its wise decisions, continually appealed

[1] Given in Maseres, "A Collection of several Commissions &c." p. 113.
[2] See Carleton's letters to Gage and Shelburne, pp. 280, 281.

to as the measure of justice in this country, they will be inclined to think *that* government to be best, under which those wise laws could most ably be administered, which is that of the French king; which, together with the continuance of their attachment to the Popish religion, will keep them ever in a state of disaffection to your Majesty's government, and in a disposition to shake it off on the first opportunity that shall happen to be afforded them by any attempt of the French king to recover this country by force of arms.

Third inconvenience.

And in the third place, it will discourage your Majesty's British subjects from coming to settle here when they see the country governed by a set of laws, of which they have no knowledge, and against which they entertain (though perhaps unjustly) strong prejudices.

The expensiveness and dilatoriness of the English law proceedings are the principal subjects of the complaints of the Canadians.

Your Majesty's attorney general of this province is further of opinion, that the body of your Majesty's new Canadian subjects are by no means either so distressed or so discontented by the introduction of the English laws into this province as they are represented in the foregoing report: at least he has seen no proofs of either such great distress or high discontent. What he has principally observed to be the subject of their complaints has been, either the expence or the dilatoriness of our law-proceedings; which he therefore conceives stand in need of reformation: and he is of opinion, that to establish three courts of general jurisdiction in all matters criminal as well as civil in the province, to sit every week in the year (with a very few exceptions) in the towns of Quebec, Three Rivers, and Montreal, would be the most adequate remedy for these complaints.

To erect three royal courts of general jurisdiction to hold their sittings weekly.

To make a code of laws for the use of the province.

And as to the substance of the laws which are to be henceforwards admitted in this province, he conceives that the best way of all to settle these would be to make a code of them, that should contain all the laws of every kind, criminal as well as civil, that were intended to be of force here, to the exclusion of all other laws, both French and English, that were not inserted in the said code; by which means all pretence would be taken away both from the French and British inhabitants of this province for complaining that they are governed by unknown laws. This he conceives to be a work of difficulty indeed, but by no means impracticable; and he apprehends that it would be a work of very great utility to the province, even though it should be very imperfectly executed, and many important articles should happen to be omitted in it; provided only that those things that were inserted in it were useful and reasonable, and set forth in a clear and proper manner: because he apprehends that the rules so inserted would be sufficient

to govern at least all the common cases that would happen in the ordinary course of human affairs, such as descents in the right line, the right of representation in grand-children whose parents are dead, the dower of widows, the rents and services due to seigniors, the obligations and duties due from them to their tenants, the seignior's right to the common mutation-fines, his right of pre-emption of his tenant's land when the tenant is disposed to sell it, the rules of evidence in courts of justice, the solemnities necessary to be observed to give validity to a deed or will, and the like obvious and important matters; which would be sufficient to prevent the province from falling into confusion. And as to the nicer cases which might be omitted in such a code, they might afterwards be supplied by particular ordinances passed from time to time for that purpose.

To revive the old French laws relating to landed property and the distribution of the effects of intestates.

But if this measure of making such a code of laws should not be thought adviseable, your Majesty's attorney general of this province is humbly of opinion that it would be most expedient to let the English law continue to subsist in this province as the general law of the province, and to pass an ordinance to revive those of the former French laws which relate to the tenure, inheritance, dower, alienation, and incumbrance of landed property, and to the distribution of the effects of persons who die intestate. His reasons for thinking that the French laws upon these heads ought to be revived, are as follows,

These heads of law are three in number: First, those relating to the tenures of land in this province, or the mutual obligations subsisting between landlords and tenants with respect to them. Secondly, the laws relating to the power and manner of aliening, mortgaging, and otherwise incumbering landed property. And Thirdly, the laws relating to dower, inheritance and the distribution of the effects of persons who die intestate. And these several heads of law ought, as he humbly apprehends, to be revived in this province upon separate and distinct grounds.

Laws of tenure.

The laws of tenure, he conceives, ought to be considered as having been already granted by your Majesty to your new Canadian subjects by that article in the capitulation of 1760, by which your Majesty's general granted them *the enjoyment of all their estates, both noble and ignoble*,[1] and by the permission given them by your Majesty in the definitive treaty of peace in 1763, to continue in the possession of them;[2] these laws being essentially necessary to such possession and enjoyment. Such are the laws relating to the quit-rents due by the freeholders, who hold by rent-service, to the seigniors, the mutation-fines,

[1] See Capitulation of Montreal, article 37, p. 18, also p. 32.
[2] See Treaty of Paris, especially the 4th article, p. 99, and p. 115.

the right of pre-emption, and the rights of escheat in certain cases; all which constitute the principal part of the property of the seigniors.

Laws relating to the manner of aliening and incumbring landed property.

But the laws relating to the power and manner of aliening, mortgaging, and otherwise incumbring, landed property, are not, as he apprehends, absolutely necessary to the enjoyment of the lands themselves, and therefore ought not to be reckoned quite so sacred and unchangeable as the laws of tenure themselves. Yet he conceives them to be very nearly connected with those laws, and almost dependant upon them, so that they could not be changed in any considerable degree without diminishing the value of the lands themselves, by means of the practical difficulties that would occur in making use of the new modes of conveying land that would be established in their stead; and therefore he thinks that they ought to be continued. And further, he conceives it will be the more necessary to revive or continue the French laws upon this subject, in order to prevent the introduction of the English laws upon the same subject, namely, the doctrine of estates-tail, the statute *de donis*, the method of defeating that statute by common recoveries, the doctrine of fines, the statute of uses, and the doctrine of uses in general, and other nice doctrines relating to real estates, which are full of so much subtlety, intricacy, and variety, that, if they were to be introduced into this province, they would throw all the inhabitants of it, without excepting even the English lawyers, into an inextricable maze of confusion. For these reasons he apprehends that the English laws upon this subject ought never to be introduced here; and that the former laws of the province relating to it ought for the present to be revived.

The practice of the English laws upon this subject would be highly inconvenient to the province.

Laws of inheritance and dower, and the distribution of the effects of intestates.

Lastly, as to the French laws concerning dower and the inheritance of lands and the distribution of the goods of intestates, with respect to such marriages as have been contracted, and such deaths as have happened, since the establishment of the civil government in this province, your Majesty's attorney general of this province is humbly of opinion, that those laws ought not to be considered as necessary appendages to the property of your Majesty's Canadian subjects in this province, and as having therefore been granted to them by implication in the articles of capitulation and the definitive treaty of peace; because they do not affect the property, or the rights, of the Canadians then in being, to whom alone those grants were made, but only guide and determine the course and devolution of that property after their deaths among persons that were then unborn. This, therefore, he conceives to be a matter upon which the authority of a legislator may properly be exercised. And

he further apprehends, that in some time hence a change of the laws relating to these subjects, and especially of those relating to dower and the inheritance of land, would be highly beneficial to this province, the present excessive subdivision of the lands, by repeated partitions of them amongst numerous families, being productive of considerable inconveniencies. But this, he apprehends, need not be done at present; and he conceives, that, if ever it should be thought adviseable to do it, it ought to be done by a full and express declaration beforehand of the time at which the proposed changes should take place, with a power given to such persons as disliked them to prevent their taking place in their respective families by express provisions and agreements to the contrary, and should be accompanied with such temperaments and modifications as should make the adopting them be in a manner the voluntary act of the persons who were affected by them. But for the present he conceives it might be better to postpone those important changes, and to revive the ancient laws of this province concerning inheritance and dower, and the distribution of intestates estates, as well as those relating to the tenures of land and the power and manner of aliening and mortgaging and otherwise incumbring it. And this one ordinance, reviving the said ancient laws relating to landed property and the distribution of the effects of persons who die intestate, would, as he conceives, be sufficient to preserve the tranquillity of the province, and to give satisfaction to the bulk of the Canadians: at least, he apprehends it would be enough to begin with: and if, upon trial, it should be found necessary to revive some other of the French laws that formerly subsisted in this province, it might be done by another ordinance or two, that might be passed for that purpose, when the necessity of them should become apparent. By such an ordinance as is above mentioned passed at present, and by the establishment of an easy and cheap method of administering justice in this province with sufficient expedition, he conceives that the far greater part of your Majesty's Canadian subjects would be contented. This therefore is what he humbly presumes to recommend to your Majesty as the best method which he can suggest for the settlement of the laws of this province, after the fullest consideration of this difficult and important subject.

FRANCIS MASERES,
Attorney General.

Quebec, September 11th 1769.

SESSIONAL PAPER No. 18

REPORT OF LORDS COMMISSIONERS FOR TRADE AND PLANTATIONS RELATIVE TO THE STATE OF THE PROVINCE OF QUEBEC.[1]

QUEBEC

1769.
July 10th

To the Right Honorable the Lords of the Committee of His Majesty's Most Honorable Privy Council for Plantation Affairs.

My Lords,

Your Lordships having been pleased by your Order of the 28th of September 1768, to refer unto us two Letters to the Earl of Hillsborough, one of His Majesty's principal Secretaries of State, from sundry Merchants of London trading to, and deeply interested in the Province of Quebec, humbly recommending, that a full Legislature may be speedily granted for that Province ; and that a number of His Majesty's Roman Catholic Subjects there may be admitted into the Council and House of Representatives[2] ; and your Lordships having also further thought fit to refer unto us a Report made by His Majesty's Advocate, Attorney and Solicitor General, upon the heads of a Plan for establishing Ecclesiastical Affairs in that Province[3], and to direct us to consider the said Papers, together with the present State of the said Province, in respect to the Administration of Justice, religious Establishments, and Revenue ; and to report to your Lordships our Opinion, whether it may be advisable for His Majesty to direct an Assembly to be convened, and, if so, under what regulations and limitations such Assembly should be constituted, and what may be proper to recommend to their Consideration for the Welfare and interest of the Province in the several points above mentioned ; We have, in pursuance of

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[1] Canadian Archives Q. 18 B., p. 7.

When this report was drawn up in 1769 a policy of great secrecy with reference to the future government of Quebec had just been adopted, with the result that between this time and the passing of the Quebec Act in 1774, few of the reports dealing with the policy of that measure are to be found among the State Papers. This report was prepared for the information of the Lords of Council and a copy of it was sent in "a secret and confidential" despatch from Hillsborough to Carleton, Dec. 1st, 1769, to secure his opinion of the proposals. The general character and purpose of the Report is thus expressed:—"This Paper will not only fully inform you what Regulations and Reform are proposed in respect to the future Government of this important Colony, but will also point out to you the Arguments and Reasoning by which it is endeavoured to support the several Propositions." Its secrecy is indicated thus:—"This Report is sent to you in the greatest Confidence, and therefore you should be careful not only that no part of it is communicated to any other person, but that in conversing upon the subject of any Difficulties or Doubts that may arise, you do avoid the Appearance of their being other than the Result of your own Reflections; and I am particularly to desire that you will bring back the Copy of the Report with you, without suffering it to fall into any other hands whatever." Q 6, pp. 129-30.

[2] These letters have not been found, but they probably reflect a movement at the time in the Province of Quebec, as indicated in a letter from Carleton to Shelburne, Jan. 20th, 1768, (see p. 295), as also in his letter of Aug. 4th, 1768. In the latter he states that a few persons, who had been endeavouring to get up a petition for an Assembly, having failed, had apparently dropped the project.

[3] This paper is contained in a Report of the Board of Trade to the Privy Council, dated May 30th, 1765, and is entitled, "Heads of a Plan for the Establishment of Ecclesiastical Affairs in the Province of Quebec." This is referred to in the representation of the Board of Trade of Sept. 2nd, 1765, see p. 247. It is given in full in the recently received but uncalendared volume Q 18 A, p. 88. The report of the Advocate, Attorney and Solicitor General on the paper has not been found.

your Lordships said Order, taken the subject matter thereof into our Consideration, and beg leave to report to your Lordships.

That the Objects of examination and discussion, pointed out in your Lordships Order of reference, and upon which we are directed to report our opinion, appear to us to be of the greatest importance to the present and future Welfare of that Colony ; and therefore, though the unsettled State of it's Government, the Jealousies and apprehensions on all hands represented to exist in the minds of the new Subjects on this Account, and the obstruction and embarrassment arising therefrom to the administration of public Affairs there, were circumstances, that did all concur to evince the necessity of some speedy reform ; yet on the other hand, when we viewed the proposition of the Merchants in it's full extent, and saw the difficulties, that in the present peculiar State of this Colony would attend the making of such a reform in it's civil constitution, as would give full satisfaction to the new Subjects, without violating those principles, upon which the British Government is fundamentally established ; we did not think ourselves justified in making any report to your Lordships, or giving any opinion upon a matter, that His Majesty's former Councils had not thought fit in their great wisdom, even upon the fullest consideration, to take any resolution upon, without proceeding with the greatest circumspection, nor without the fullest information, that could be collected, as well from the correspondence of His Majesty's Servants there, as from the examination of persons here, who have been resident in, and are well acquainted with the affairs of Quebec.

The time, that has elapsed since the date of your Lordships order, has made it necessary for us to say thus much, lest your Lordships should impute to us a delay, which, if unnecessarily created, would not fail to subject us to your censure, in the case of an important part of His Majesty's Dominions suffering every inconvenience and disadvantage, that can arise out of a very imperfect, inadequate and defective Constitution, where the Inhabitants of it, consisting of above eighty thousand brave and loyal Subjects, do, by the nature and form of such Constitution, and the most unwarrantable Doctrines and Opinion founded thereon, Stand prescribed from every privilege, and denied every right, the possession of which can alone ensure their affection, and fix their attachment to the British Government.

How this comes to be the case in Quebec will be more fully seen by the following narrative of what has been established in respect to the Civil Concerns of that Colony, since it passed under His Majesty's Dominion ; and from thence your Lordships will be enabled the better to judge of the propositions we shall submit to you, as the ground for such a reform in the Constitution of this Colony, as may consist with Justice and Equity, and we hope, be the means of for ever securing the possession of it to the Crown of Great Britain.

On the eighth of September 1760, Canada with it's dependencies was surrendered to His Majesty by Capitulation,[1] in which it is Stipulated, that the Inhabitants both Laiety and Ecclesiastics shall become subjects of the crown of Great Britain, reserving the free exercise of their Religion, and the entire possession of their property under all descriptions.

On the tenth of February 1763 the definitive Treaty of Peace was signed at Paris[2] ; by the fourth Article of which, Canada with all its dependencies is ceded to the crown of Great Britain, and His Majesty agrees to grant the liberty of the Catholic Religion to the Inhabitants of Canada, and that he will consequently give the most precise and most effectual orders, that His New Roman Catholic Subjects may profess the worship of their Religion according to the Rites of the Romish Church, as far as the Laws of Great Britain permit.

In October 1763 His Majesty was pleased by Letters Patent under the Great Seal to appoint the honorable James Murray Esquire to be Governor of this Colony,[3] the limits of which are thereby fixed and ascertained, and it's former name of Canada changed into that of Quebec.

By these Letters Patent, and by the Instructions[4] from His Majesty, which accompanied them, the Governor is authorised and impowered,

First. To appoint a Council to assist him in the administration of Government, consisting (according to the usage and constitution of other Colonies) of twelve persons, eight of which to be chosen from amongst the most considerable of the Inhabitants and Persons of property in the said Province, and the remainder to be composed of the principal Officers of Government.

Secondly. To Summon and call, with the advice and consent of the said Council, as soon as the situation and circumstances of the Province shall admit, a general Assembly of the Freeholders and Planters, in such manner, as he shall judge most proper, or according to such further directions or authorities, as shall be given to him under His Majesty's Signet or sign Manual, or by Order in Council.

Thirdly, To take himself, and also administer to each of the members of the said Council and Assembly the Oaths mentioned in the Act of Parliament of the first of George the First, and to subscribe himself and to cause them to subscribe the Declaration against Transubstantiation, mentioned in the Statute of the twenty fifth of Charles the second ; and it is ordered, that, until the said Oath and Declaration shall have been so taken, and subscribed, no person, though elected, shall be capable of sitting in the Assembly.

Fourthly, To make, constitute and ordain, with the advice and consent of the said Council and Assembly, Laws, Statutes and Ordinances for the public peace, welfare and good Government of the said Province; which

[1] Capitulation of Montreal; see p. 7.
[2] Treaty of Paris; see p. 97.
[3] Commission to Governor Murray; see p. 173.
[4] Instructions to Governor Murray; see p. 181.

Laws, Statutes and Ordinances are not to be repugnant to, but, as near as may be agreable to the Laws and Statutes of this Kingdom ; and until the Situation of the Province should admit of calling an Assembly, he is, with the Advice of the Council, to make from time to time such rules and regulations, as shall appear to be necessary for the peace, order and good Government of the Province ; taking care, that such rules and regulations shall not extend to affect the life, limb, or liberty of the Subject, or to the imposing any Duties, or Taxes.

Fifthly. To establish such and so many courts of Judicature and public Justice, as shall appear to be necessary, and to constitute and appoint Judges, Commissioners of Oyer and Terminer, Justices of the Peace, and other necessary Officers and Ministers.

These are all the directions and authorities, which seem necessary for the present purpose to be recited ; the rest of the powers contained in the Commission are the same, as are usually given to the Governors of other Colonies ; but as it is material to observe, that the Letters Patent direct, that he shall execute his command according to the powers and directions contained therein, and in the Instructions which accompanied them, or "according to such further Powers or Instructions, as may be hereafter "given to him under His Majesty's Signet or sign Manual, or by Order in "Council, and conformable to such reasonable Laws and Statutes, as shall "be made and agreed upon by him with the advice and consent of the said "Council and Assembly."[1]

On the seventh of October 1763 His Majesty's Proclamation[2] was published, declaring the limits and extent of the four new Governments of Quebec, East Florida, West Florida, and Grenada, reciting the powers, given to the Governors by their Commissions under the Great Seal, of Summoning Assemblies, and of passing Laws with the advice and consent of the said Councils and Assemblies ; and containing His Majesty's Royal Assurance, that, in the mean time, and until such Assemblies could be called, all persons inhabiting in, or resorting to the said colonies might confide in His Majesty's Royal Protection for the enjoyment of the benefit of the Laws of England.

By these Constitutions the form of Government established in this Colony by the Crown of France, and adopted with some Variations after the conquest of it, though not entirely abolished, as some persons have contended, was yet, in many parts of it, materially altered, and made to correspond with that form of Government, which has been established in His Majesty's other American Colonies. The having a complete Legislature competent to those regulations, which a Colony under such Circumstances must necessarily require, appears to have been one of the first Objects ; and there can be no doubt, but that His Majesty's Commission and Proclamation, in the provision they make for this purpose, had in view

[1] See p. 182.
[2] See p. 163.

to extend to his Majesty's new Subjects those Privileges, which exist in the principles of a British Constitution. But the exercise and operation of this Legislative Power having been rendered impracticable by inserting in the Commission, without sufficiently adverting to the state of the Colony the restriction,[1] that no person should sit in the Assembly, who had not subscribed the Test, required in this Kingdom by the Act of the twenty fifth of Charles the second, the powers of Government became confined to the Governor and Council, whose authority not extending to cases, which might affect either the life, limb, or liberty of the Subject, or to the imposing Duties and Taxes, was incompetent to those regulations, which the situation of the Colony required ; and consequently no provision has been made for establishing such a reasonable Revenue, as may be adequate to the necessary expences of Government, the whole of which is now a burthen upon His Majesty's Treasury here. The Roman Catholic Religion, though barely tolerated by the Treaty, remains without any regulation, reform, or control whatever, and that of the Mother Country without any provision or support.

Besides these capital objects, there are many other constitutional establishments, and necessary services, for which no provision either has been, or can be made in the present state of the Colony ; and it has even been found necessary to disallow several Ordinances of the Governor and Council, in Matters merely of local regulation, and internal œconomy, from a consideration of the Want of a due authority to enact them.

These wants and defects are of themselves sufficient to evince the necessity of having a complete legislative power, for the establishment of which it is humbly conceived the Faith of the Crown stands fully pledged, both by the Commission under the Great Seal, and by the Proclamation ; but the state of the Colony, in respect to the Administration of Justice in civil cases, is a circumstance, that does above all others mark the necessity of some form of Government more perfect and effectual.

On the seventeenth of September 1764 the Governor and Council promulged an Ordinance[2] for establishing and regulating Courts of Justice, by which the plan of Judicature is made to consist of a Superior Court, having the Jurisdiction of the Court of King's Bench ; an inferior Court, having the Jurisdictions of the Court of Common Pleas, and Courts of Oyer and Terminer, Assize, and Goal Delivery ; and it is declared by this Ordinance, that all matters, Civil and Criminal, shall be heard and determined in these Courts agreeable to the Laws of England.

According to the construction put upon this Ordinance by those who framed it, it was to be understood, that not only the proceedings in these Courts were to be carried on according to the modes and forms established in the Courts in Westminster Hall, but also all the principles of the Law of England, relative to Descents, Tenure, &c., which totally, or in part differed

[1] See p. 175.
[2] See p. 205.

from the Antient customs of Canada, and also all those local and Municipal Laws, which have from local convenience and consideration obtained in this Kingdom, were thereby introduced into Canada, and become Laws there. In consequence of these opinions and constructions, the customs of Canada, which before governed in all suits concerning property, were laid aside ; and a further ill effect of the ordinance was, that, instead of that Summary and easy process, which had before been used in the adjudication of questions of this nature, it had the effect to introduce all that delay, perplexity and expence, which accompanies the lowest and most disgraceful practice in this Kingdom ; and the new Subjects, who were precluded from serving on Juries,[1] or pleading their own Causes,[2] were compelled to entrust the prosecution of them to men unacquainted with their language and Customs, and who to the greatest ignorance added the grossest rapacity.

It is not to be wondered, that establishments, so inconsistent with the civil rights of the Canadians, and so oppressive in their operation, should have given that disgust, so strongly, and yet so respectfully expressed in their humble Address to His Majesty on this occasion;[3] more especially, when, in a Presentment of a Grand Jury[4] impannelled at a Quarter Sessions, they found their Religion presented, as illegal; themselves not only proscribed, as incapable of the common offices of Society, but also subjected to all the Pains and Penalties inflicted upon Popish Recusants in this Kingdom; and a right claimed by such grand Jury of being the only representative body of the Colony, and of being consulted upon all Measures of Government.

It is true indeed, that His Majesty has been graciously pleased to disapprove of such unwarrantable claims and proceedings, and to direct, that the Canadians shall be admitted to serve on Juries, and to plead as Advocates, in the Courts;[5] but the same erroneous opinion, with regard to the extension of the Laws of England, still prevails; the Laws and customs of Canada, in respect to property, have not gained admittance into the Courts; And His Majesty's new subjects, though they have a full Confidence and reliance on His Majesty's Equity, and His paternal Regard for their interest, do yet express great uneasiness, and wait with impatience His Majesty's Determination on those points, which so materially affect their Properties, Quiet, and Happiness.

The representations of this matter made by His Majesty's Governor in his Letters to the Secretary of State, copies of which are hereunto annexed,[6] are so full and explicit, and do so clearly and distinctly point out the danger, to which the Colony stands exposed, and the necessity of some speedy measures being taken to give satisfaction to the new Subjects in the several

[1] See, however, Murray's comment on this feature of the ordinance, as given in note 2, p. 206, and note 5, p. 206.
[2] See note 1, p. 207.
[3] See Address to the King, 1764, p. 223.
[4] See presentment of Grand Jury, p. 212, and Reply of French jurors, p. 216.
[5] See ordinance of July 1st, 1766, and instructions for passing it, p. 249 and note 2, same page.
[6] See appendix to this report, Nos. 1, 3 and 5, pp. 393-4.

points we have considered, as to make it unnecessary for us to add any further observations of our own.

From these Letters, and from what has been said, it is evident, That the Colony of Quebec is in the greatest disorder and confusion, and that the authority of the Governor and Council, as limited by the Commission and Instructions, is in no respect competent to those regulations, which either the present state of it does, or the future progress of it may require; and as it appears to us, that there is no Method of curing these disorders, and giving effect and Stability to Government, but by establishing a competent legislative Authority, conformable to the Royal Assurances contained in the Commission and Proclamation; we are therefore of opinion, that it is necessary in the present State of Quebec, that a complete Legislature should be established; and that it would be advisable for the present to adopt not only the measure recommended by the Merchants[1] of admitting, under proper regulations and restrictions, a number of His Majesty's new Subjects into the Council and House of Representatives, but also into the Courts of Judicature, and other Offices of Government, by exempting them from the obligation of Subscribing the Declaration against Transubstantiation declared in the Statute of twenty-fifth of Charles the second, conformable to what has been done in the like case in the ceded Islands, and has been found, both upon Antient precedent and late opinions of Law, to be a Matter entirely in His Majesty's Discretion[2]

Having thus fully answered the first and most material part of your Lordships Order, by which we are directed to report our opinion, whether it may be adviseable for His Majesty to direct an Assembly to be convened, according to what the merchants propose; we shall proceed in the next place to consider, under what regulations and limitations such Assembly should be constituted.

And first, with regard to the Council, which will, under its present form and constitution, as established by His Majesty's Commission, become a branch of the Legislature, whenever a House of Representatives is convened, it only remains for us to advise, That, in order to admit into it a reasonable proportion of His Majesty's New Subjects, the number of the said Council, which is now fixed to twelve persons, should be enlarged to fifteen; That a number of His Majesty's New Roman Catholic Subjects, not exceeding five, should be appointed members thereof, at such times as His Majesty shall think proper; and that they should be exempted from the obligation of subscribing the Declaration against Transubstantiation, which is by His Majesty's Commission and Instructions required to be taken and subscribed by the members of the Council in general.

With regard to the House of Representatives, which (though declared by His Majesty's Royal Commission and Instructions to be a part of the

[1] Referring to the letters mentioned in the first paragraph of this Report.
[2] See Report of Norton and de Grey, p. 236; also the opinion of Attorney General Yorke *re* the status of French Catholics in the island of Grenada, given in note 1, p. 266

Constitution,) has never yet, for the reasons already mentioned, taken place, it will, we presume, be neither practicable nor expedient, in the present state of that Colony, to give it such a shape and form, as shall be considered to be fixed and permanent under all circumstances; every establishment of this nature must be considered merely in the light of experiment, so far at least as depends upon the form in which it shall be first convened; open in all cases that regard the places which are to elect Representatives, the number to be elected, and the form of their qualifications, and proceedings, to such alterations, as a Variation in the state and circumstances of the Colony shall from time to time require.

For the present, as this Province is already divided into three districts, and, as we observe, that the Courts of Justice and other Civil Establishments are formed with a view of this division of it, we presume your Lordships will be of opinion, that the establishment of a House of Representatives should likewise correspond therewith; and therefore we take leave to propose, that it should consist of twenty seven Members, to be elected in Manner following, that is to say,

For the City of Quebec	7.
For the District of Quebec	6.
For the City of Montreal	4.
For the District of Montreal	4.
For the Town of Trois Rivieres	3.
For the District of Trois Rivieres	3
	27.

That the Members, chosen for the several Districts, shall not be obliged to take any other Oaths, than those of Allegiance, Supremacy and Abjuration; But care must be taken, that the Privilege, hereby meant to be given to the New Subjects, of being eligible for the Districts, is confined to them only, and to such of them as were actual Inhabitants of Canada, and possessors of Lands and Tenements therein at the time of the Treaty of Paris; That the Members elected for the Cities of Quebec, and Montreal, and Town of Trois Rivieres, shall, besides the Oaths of Allegiance, Supremacy and Abjuration, subscribe the Test against Transubstantiation required by the Act of twenty fifth of Charles the second Chap: Second.

That the mode and form of convening the first Assembly shall be prescribed by an Ordinance to be passed for that purpose; in which it shall be declared, that no person shall be capable of being chosen a Representative, or shall vote in the choice of a Representative, that has not attained the age of twenty-one years, and is not actually and bona fide, a proprietor or occupier of Lands, or a Tenement within the Province; but that the qualifications of both electors and elected, and the forms of proceedings in respect to elections be more particularly provided for by a Law to be passed

in the first Assembly that shall meet; and that it be recommended, that no person, be capable of being elected for a District, that is not possessed, either in his own right, or in right of his Wife, of a Seigneurie within the Province.

That the person elected speaker of the Assembly shall take the Oaths of Allegiance, Supremacy, and Abjuration, and also subscribe the Test required by the Act of the twenty fifth of Charles the second, Chap: Second.

By the foregoing regulations your Lordships will observe, that it is probable, that the House of Representatives will consist nearly of an equal number of Protestant & Roman Catholic Subjects; and that, as those to be elected for the Cities of Quebec and Montreal, and for the Town of Trois Rivieres, must of necessity be Protestants, so it will be most likely, though not of necessity, that those for the Districts will be persons professing the Roman Catholic Religion; and we trust, that, when your Lordships consider the state of this Colony, in respect to the very great Superiority in number and property of the new Subjects, you will not think the rule of proportion between one description and the other to be more favorable to the new Subjects than Justice and equity require.

As to the proper times for the meeting of the Assembly, the nature and form of the Writ for election, and the Various other minute regulations incident to such an institution, they are matters, which must be left to the discretion of His Majesty's Governor, who will doubtless regulate his conduct herein, by what has been approved and found most beneficial in other Colonies, so far as such precedents conform to the peculiar Situation and circumstances of Quebec.

We are now come, my Lords, to that part of your Lordships Order, by which we are directed to consider of the present state of the Colony of Quebec in regard to the Administration of Justice, religious Establishments, and Revenue; and what may be proper to be recommended to the consideration of the Legislature there, for the welfare and interest of the Colony in these several points.

The general observations, which we have before submitted to your Lordships upon the state of the Colony of Quebec, in respect to these essential parts of it's interests, together with the remarks contained in the Governor's Letters already referred to, make it unnecessary for us to enlarge further upon the necessity there is for some speedy reform and regulation in these matters; and although the forming a precise and just opinion of what that reform and regulation should be, may at first sight seem to be accompanied with the greatest difficulty; yet as all these great objects have already been fully considered, and the Subject matter discussed at the proper Boards, and by His Majesty's Law Servants;[1] and as we have every other information, that could be collected from the correspondence of His Majesty's Governors, and from the examination of persons best acquainted

[1] See report of Yorke and de Grey, p. 251.

with the state of the Colony, we shall not hesitate, with the assistance of these lights and informations, to suggest to your Lordships such regulations, as we are humbly of opinion may serve, as the Ground Work of Instructions to His Majesty's Governor, and remove all colour for any further delay, in matters of so great moment, and upon which the welfare, nay the very existence of the Colony depends.

With regard to the form and constitution of the Courts of Justice proper for this Colony, and the regulations necessary in Ecclesiastical matters, your Lordships have already before you not only the fullest Reports of this Board, but also the opinion of His Majesty's Law Servants given upon those Reports after the most mature deliberation;[1] And as we do not see any reason from any information received since the date of those Reports, to entertain the least doubt of what has been proposed in respect to Courts of Judicature, except only as to the establishment of Circuit Courts, and to the nature of Juries to be impanelled in Special criminal Cases, we submit, whether any thing further is necessary as to this institution, than to send over to the Governor the Report of this Board on the second of September 1765, and the Report thereupon of His Majesty's Attorney and Solicitor General on the twenty fourth of April 1767,[2] together with the draught of additional Instructions,[3] which was prepared in consequence thereof; with directions to recommend to the Legislature there a proper Law or Laws for establishing Courts of Judicature, and for regulating their proceedings upon the plan and principles laid down in the said Reports, and draught of additional Instructions;[4] excepting only, that, instead of the Circuit Courts of Assize, Nisi Prius, Oyer and Terminer, and Goal delivery therein recommended, they should follow the model of the circuit Courts of grand Session held for the Principality of Wales, as being a shorter and more comprehensive mode of proceeding; And instead of the exception in the sixth Article of that draught of Instructions, which follows immediately after the direction for the impanelling Canadian Subjects on Juries indiscriminately with the natural-born Subjects,[5] such their admission should be allowed with a proviso, that all criminal Offences should be tried by Juries de Medietate, composed equally of natural born Subjects and Canadians, excepting only in Cases where a natural born subject or a Canadian stands charged with the Wilful Murder of one of the same description, in which cases the Jury to be of the same description with the person to be tried for such Offence.

The regulations and reform necessary in respect to Ecclesiastical Affairs is a consideration, that requires to be more particularly discussed: for, although the Report of the Board of Trade upon this Subject in 1765[6],

[1] Referring to the Report of the Board of Trade of 2nd Sept., 1765, and the Report of Yorke and de Grey upon it. See pp. 247 and 251.
[2] This is an error, as the report is dated 14th April, 1766. See p. 257.
[3] See p. 286 and note 1, same page.
[4] See ordinance of July 1st, 1766, p. 249.
[5] As enacted in the ordinance of July 1st, 1766. See p. 249.
[6] Referring to the "Heads of a Plan, &c., as indicated in note 3, p. 377

is very full and explicit, as to the measures which ought in justice and good policy to be adopted for such a reform of the Religion of the Church of Rome, as may leave the exercise of it upon the ground of that toleration meant by the Treaty of Paris; yet, as it does not point out, in what manner the different propositions are to be carried into execution it certainly leaves room for the observation of His Majesty's Advocate, Attorney and Solicitor General in their Report upon it, that many of the propositions have reference to Matters of Property, and to Rights, which cannot be altered or reformed by the sole authority of the Crown.

As this opinion of the learned Gentlemen confirms us in those ideas we have at all times entertained on this Subject, we shall beg leave to recite the several propositions, distinguishing such, as will, we conceive, require to be established by legislative authority, from those that may be carried into execution by Instructions from His Majesty to His Governor; and making such additions to, and alterations in the several Articles contained in the afore-mentioned Report of this Board, as more mature consideration and further information have pointed out to us.

The propositions in the Report of this Board,[1] which appear to require the interposition of the legislative authority, are principally those, that recommend either the immediate abolition, or gradual reform of the several Religious Communities, which not being, as we conceive, in general necessary to a free exercise of the Religion of the Church of Rome, as meant to be tolerated by the Treaty of Paris, are institutions of such a nature and tendency, as ought not to be allowed in a British Colony.

It is true indeed, that by the terms of the Capitulation, on which Canada surrendered to His Majesty's Arms, several of the Religious Communities were to be preserved entire; but we beg leave to observe, that this Capitulation can be considered in no other light, than as a temporary agreement between Officers on the one side and the other, submitted to the final decision of the Sovereigns of the contracting parties, who have, by Solemn Treaty, finally fixed, what shall be the condition, in respect to matters of Religion, of those Inhabitants of Canada, who by this Treaty became British Subjects; and therefore the Capitulation is now, we apprehend, out of the question, and the whole depends upon the fourth Article of the Treaty of Paris, which contains nothing more in respect to the Religion of the Church of Rome, than barely a free exercise of it by the new Subjects, so far as the Laws of England permit.

Under these circumstances we are of Opinion, that it ought to be recommended to the Legislature of Quebec to pass a proper Law or Laws for the reform of the several Religious Communities in the following manner, That is to say,

First, That the Community of the Jesuits be entirely abolished; and all their Lands and Property of every kind, personal Property only excepted,

[1] Referring to the "Heads of a Plan for the Establishment of Ecclesiastical Affairs in the Province of Quebec," various clauses of which are passed in review.

vested in His Majesty, His Heirs and Successors, to be applied to such public uses, as shall from time to time be thought best for the interest and advantage of the Colony, reserving to the present members of that community respectively during their Lives such pension, as shall be equal to the share each personally now receives of that Revenue.

Secondly, That the Chapter of Quebec, consisting of a Dean and twelve Canons, be also abolished.

Thirdly, That the office of Provincial Commissary of the Recollects be also abolished; and that Community not allowed to admit any new Fathers, or Brethren; and that their Revenues be vested in His Majesty, His Heirs and Successors, for the public uses of the Colony, in such sort, that it shall be applicable by the Crown to such uses, in proportion as the present members die, or are presented to Vacant Cures; so that, when the whole community shall by such events be dissolved, their Lands and Tenements will become a Fund in the hands of the Crown for the purposes aforesaid.

Fourthly, That the Seminaries of Quebec and Montreal be consolidated at Quebec under one Superior, in order to provide a succession of Pastors to the several Parishes; but that the members, admitted in order to become Priests, be limited to a certain number; and that the Revenues be vested in His Majesty, His Heirs and successors, to be applied as the Crown shall think fit for the support of such Seminary, and for other public uses within the Colony.

Fifthly, That no new Professions, Engagements, or Admissions be allowed in the convents or Religious Communities of Women; and that their Revenues, as they decrease in number, be in like manner vested in His Majesty, His Heirs and Successors, for the public uses of the Colony.

This, My Lords, is, we humbly conceive, the only reform in respect to Ecclesiastical Establishments in the Colony of Quebec, necessary to be provided for, and carried into execution by Legislative Authority, as affecting rights and property, which, as His Majesty's Law-Servants justly observe, are not subject to the controul of the single Authority of the Crown.

As to His Majesty's Supremacy in Ecclesiastical Cases, in absolute exclusion of all foreign power or jurisdiction whatever, it is, we humbly apprehend, a Right, and Prerogative, which, by the principles of this Government, as by Law declared, is inherent in, and inseparable from the Crown in all parts of the British Dominions; and therefore is already a part of the Constitution of this Colony: it may not however be improper, in order to remove all doubts or mistakes in a matter of so much importance, to refer to it as such in the preamble of the Law, that shall be passed for the reform above-mentioned; which will, we apprehend, be a very sufficient, and not an improper promulgation to His Majesty's New subjects of this fundamental part of the constitution of that Government, to which they are now become subject, and will be a full and sufficient warning to them

of the illegality and inadmissibility as well of any appeals to any foreign Church, Tribunal, or Jurisdiction, as of any order or regulation whatever in Ecclesiastical Matters, other than such as proceed immediately from His Majesty, or from those acting under His Royal Authority.

We shall, My Lords, proceed in the next place to state to your Lordships such propositions, respecting the toleration of the Religion of the Church of Rome in Quebec, in consequence of the fourth Article of the Treaty of Paris, as appear to us essential to the execution of that Treaty, conformable to its just sense and spirit.

Upon this occasion we have the satisfaction to find it declared in the Report of His Majesty's Law servants, annexed to your Lordships order of reference, that, as the several Acts of Parliament which impose disabilities and penalties upon the public exercise of the Roman Catholic Religion, do not extend to Canada,[1] His Majesty is bound by no ties or constitutional necessity to prohibit the profession of this Worship there; and that as His Majesty is not bound to prohibit, He is at liberty to tolerate such Worship, so far, and in such form as not to impeach or violate His Royal Supremacy.

Upon the ground of this opinion, and upon what is further set forth in their Report upon the plan for regulating Ecclesiastical Affairs in the Colony of Quebec Submitted by this Board in 1765,[2] we do not hesitate to propose to your Lordships,

First, That, as being necessary to the due execution of the Treaty of Paris, a proper person be licensed by His Majesty, during Pleasure, to Superintend the affairs of the Romish Church; but it will be essential to the legality of such appointment, that the powers should be so limited and circumscribed, as that it may not violate or impeach His Majesty's Supremacy in all causes, as well Ecclesiastical as Civil, which, as we have before observed, is inseparably inherent in the Crown; or have the effect in any manner whatever to obstruct His Majesty's Service, or the due course of Law.

Secondly, That to this end the conduct of the Superintendant in the execution of this Office should be governed by the following limitations and restrictions, to be prescribed by Instruction to the Governor, that is to say,

Thirdly, That such Superintendant shall not take upon him any outward Pomp or Parade incident to the dignity of Episcopacy in Roman Catholic Countries; nor take upon himself, nor appoint others to take cognizance of any matters of a civil, criminal, or ecclesiastical nature, except in such cases, as respect the conduct of the inferior Clergy in religious Matters; and in those cases, not to exercise any authority or Jurisdiction without the consent and approbation of the Governor; nor is the said Superintendant to use any other powers than such as the Governor and

[1] See Report of Norton and de Grey, p. 236.
[2] Referring to the "Heads of a Plan, &c.," already cited.

Council shall think absolutely necessary to the exercise of the Roman Catholic Religion by His Majesty's new Subjects.

Fourthly, That the said Superintendant shall not make any new Regulations in respect to Ecclesiastical Affairs, other than such as shall be necessary for the purposes aforesaid; nor shall any regulations whatever be made or established with respect to the Romish Church, or any persons appointed to Ecclesiastical Benefices in the Romish Church within the said Province of Quebec, without the consent and license of the Governor or commander in Chief; nor shall he allow of any public processions, or other ceremonies of Pomp or Parade; but shall take care, that the Rites of the Church of Rome be in all cases observed with such moderation and simplicity, as to avoid all occasion of offence or dispute between His Majesty's Protestant and Roman Catholic Subjects.

Fifthly, That the said person, so licenced, as aforesaid, to superintend the affairs of the Romish Church, shall, before he enters upon the exercise of any of the functions incident to his Superintendancy, take an Oath of Allegiance and Fidelity to His Majesty; which Oath shall be taken before the Governor sitting in Council, and entered upon Record in the Council Books.

Sixthly, That if the said person, so licenced to superintend the affairs of the Romish Church, shall in any respect act contrary to the foregoing regulations and restrictions, or shall otherwise misbehave himself, to the danger, Scandal or reproach of His Majesty's Government, the Governor or Commander in Chief shall have power to suspend him from the exercise of his said Superintendancy, transmitting his reasons for so doing to His Majesty by one of His Majesty's principal Secretaries of State.

As to the provision necessary to be made for the support and maintenance of the person, so licenced, as aforesaid, to superintend the affairs of the Romish Church, it is proposed, that he be admitted Superiour of the Seminary of Quebec, to be tolerated in manner hereinbefore mentioned, and have such Stipend or appointment, as His Majesty shall think proper out of the Revenues of that Seminary.

These propositions, together with what are before suggested in respect to the Religious Communities, contain every thing we have to submit respecting Ecclesiastical Affairs in Quebec; And your Lorships will observe, that they have for their objects,

First, Such a reform of the several Religious Communities, as can be made without prejudice to that free exercise of the Religion of the Church of Rome, Stipulated by the Treaty of Paris.

Secondly, By vesting the Estates and Property of those Communities in the Crown, to establish a Fund, out of which the Crown will be enabled to make a better provision for the support of a Protestant Ministry; and

Thirdly, To give such toleration to the free exercise of the Roman Catholic Religion by a Parochial Clergy under the Superintendancy of a

person licenced for that purpose by the Crown, as consists with the Spirit and intention of the Treaty of Paris.

We are sensible, My Lords, that the regulations we have suggested, when compared with these objects, may be found in the execution to require some further addition; but we shall think we have not altogether failed in our wishes to comply with your Lordships direction, if what we have suggested shall lay the foundation of such Measures, as your Lordships superior Wisdom and experience shall enable you to recommend in a Matter, which we again beg leave to repeat is of the greatest importance, and which will not in our opinion safely admit of any longer delay.[1]

* * * * * * *

It would, My Lords, have been a great Satisfaction to us, in making our Report to your Lordships upon the several matters contained in your Order of Reference, to have been able to have reduced, what we had to offer into a narrower compass; but although we have, with this view, taken the liberty to refer your Lordships to former Reports upon the affairs of Quebec, in cases where we saw no reason to deviate from the Opinion or Propositions contained therein, yet the necessity of being explicit on every particular point, not as yet discussed, and to which your Lordships Order refers, has made it impossible for us to avoid taking up more of your Lordship's Time, than we otherwise wished to have done; and when your Lordships reflect upon the importance of the subject, and consider how much depends upon a speedy Determination on the measures we have now proposed, we trust we shall stand justified in our endeavors to state our opinion in the fullest manner, and to lay before you every circumstance necessary for your information; and if from what we have offered it shall appear to your Lordships, as it does to us, that the form of Government, if it can be so called, at present existing in Quebec, does not correspond with what was intended in the Establishment of it, and is in no respect competent to it's wants and necessities, but on the contrary productive of the greatest Inconveniences; That the doubts and apprehensions entertained by His Majesty's new subjects ought to be removed, and that it is neither just nor reasonable, that the expence of the Establishments in Quebec should any longer continue a Burthen on this country, we trust your Lordships will agree with us in opinion, that it is high time some steps were taken towards a necessary reform, in a case of so great Importance, as to affect not only the security of this Colony, but with it, that of all His Majesty's other Dominions in America.

Whether what we have suggested proposes such remedy as is adequate to the Evil, must be submitted to your Lordships; but we should not do justice to our own Sentiments, if we did not observe, that they are founded on the fullest Information; guided in those parts, that include great con-

[1] Here follows the section of the Report dealing with the problem of the provincial revenue and its administration. As this has but little bearing on the constitutional development of the Province, it is omitted.

stitutional Questions, by the opinions of the ablest Lawyers in this Kingdom, and concurred in, not only by those, whose Offices and Residence in the Colony have afforded them the means of being fully acquainted with it's true Interest and condition, but as also of such respectable Persons both in the Church and in the Revenue Department in this Kingdom, who are by their Offices Members of this Board, and who have assisted us with their advice on this occasion.

At the same Time that we state this to your Lordships, in order to shew that no information necessary in this important consideration is wanting; and that the subject matter has undergone the most mature examination, it is our Duty to lay before your Lordships a Letter to the Secretary of State from His Majesty's Governor of Quebec,[1] received pending the consideration of this Business.

From the Copy of this Letter hereunto annexed your Lordships will observe, that the Governor States, that some Progress has been made towards a Report upon the Laws, and Administration of Justice, pursuant to His Majesty's Order in Council of the 28th of August 1767; That he considers this as the ground work of every other Regulation, and therefore waves giving his Ideas upon the Subject of Religion, and other matters, until that is entirely settled, which he says will be soon, and desires His Majesty's permission to return to England, as well upon his private Affairs, as in order to explain many points relative to that Colony; and represents, that by being upon the spot he should be able to clear up many things, and remove many difficulties, which at that distance can neither be so thoroughly discussed, or perfectly understood, as is necessary for the King's Service.

What influence this Letter is to have in your Lordships determination with regard to what is submitted to you in this Report must depend upon your Lordships wisdom weighing all circumstances; but in the light in which we view the state of this Colony, exposed, as we conceive, to great danger, and suffering many Inconveniencies for want of some more perfect Settlement, we cannot but be of opinion, that however satisfactory it might be to receive Governor Carleton's Sentiments upon many points, relative to the propositions in question; yet the danger and disadvantage of any further delay is too obvious to allow us to consider his Letter, as a justifica-

[1] See appendix No. 18. This letter is dated March 15th, 1769, and is given in Canadian Archives, Q 6, p. 34. The portion referred to is as follows:—"There would be much to say in Regard to the Affairs of Religion in this Province, but that being a delicate and tender Point, I do not design troubling Your Lordship with my Ideas thereupon until that of the Laws and Administrations of Justice, which I consider as the Ground work of the whole, is entirely settled, in which we have made some Progress in Obedience to His Majesty's Order in Council of the 28th August 1767; I hope 'eer long our Report thereon will be finished, when the same shall be transmitted to Your Lordship without Loss of Time.

"For the clearer Explanation of these, and many other Points, relative to this Province, as well as to settle some private Affairs, I wish to go Home for a few Months, * * * * * *

"By being upon the Spot with the King's Servants, I might clear up to them many Points, and remove many Difficulties, which, at this Distance, can neither be so thoroughly discussed, or perfectly understood, as is necessary for the King's Service, whose Interests, in Regard to the Province, I really believe, I could more effectually promote and advance by a Residence of a few Months in London, than of so many years in this Country. * * *" Q 6, pp. 37-38.

tion for our not recommending to your Lordship's to take some immediate Steps towards that reform which the state of the Colony requires; and therefore we humbly offer it as our opinion, that your Lordships, if you approve of the propositions we have suggested, should advise His Majesty to give the necessary Instructions for carrying them into execution; but we would recommend, that a discretionary power should be given to the Governor to defer any part of them, the execution of which he and the rest of His Majesty's Servants there shall think ought to be deferred, for such further examination, as may be necesssary upon any Representation they may have to make; and we beg leave further to observe, that it is with a view to the exercise of this discretionary Power, and upon a Consideration of the Governor's Letter, that we have stated our propositions more at large, than we should otherwise have done, and have avoided any detail, that might have embarrassed the execution, in cases where he might wish to be left to the Guidance of his own Judgement.

We are,
My Lords,
Your Lordship's
Most obedient and
Most humble Servants,

HILLSBOROUGH,
SOAME JENYNS,
JOHN ROBERTS,
ED. ELIOT,
Wm FITZHERBERT,
THOMAS ROBINSON,
LISBURNE.

Exd.

Whitehall
July 10th 1769.

QUEBEC.

1769.
June 10th.

APPENDIX.

N° 1. Extract of a Letter from Guy Carleton Esquire, Lieut. Govr. of Quebec to the Earl of Shelburne, one of His Majesty's principal Secretaries of State, dated November 25th 1767.[1]

[1] See Carleton to Shelburne, p. 281.

N° 2. General State of the Canadian Noblesse actually resident in the Province of Quebec or in the French Service, and where resident in November 1767.[1]

N° 3. Copy of a Letter from Guy Carleton Esquire, Lieutenant Governor of Quebec, to the Earl of Shelburne, one of His Majesty's principal Secretaries of State, dated December 24th 1767.[2]

N° 4. Plan of An Ordinance for continuing and confirming the Laws and Customs, that prevailed in this Province in the Time of the French Government concerning the Tenure, Inheritance and Alienation of Lands.[3]

N° 5. Extract of a Letter from Guy Carleton Esquire, Lieutenant Governor of Quebec, to the Earl of Shelburne, one of His Majesty's principal Secretaries of State, dated January 20th 1768.[4]

N° 6. Copy of a Report of the Lords of Trade to the Lords of the Committee of Council for Plantation Affairs, dated May 30th 1765, inclosing.

Heads of a Plan for the establishment of Ecclesiastical Affairs in the Province of Quebec.[5]

N° 7. Extract of a Report of the Lords of Trade to the Lords of the Committee of Council for Plantation Affairs, dated September 2d 1765.[6]

N° 8. Copy of a Report of His Majesty's Attorney and Solicitor General to the Lords of the Committee of Council for Plantation Affairs, dated April 14th 1766.[7]

N° 9. Copy of a Report of the Lords of Trade to the Lords of the Committee of Council for Plantation Affairs, dated June 24th 1766, inclosing,

Draught of Additional Instructions to the Governor of Quebec, relative to the establishment of Courts of Judicature in that Province.[8]

N° 10. Copy of a Report of His Majesty's Advocate, Attorney and Solicitor General, to the Lords of the Committee of Council for Plantation Affairs, dated January 18th 1768.[9]

N° 11. Copy of a Letter from Guy Carleton Esquire Lieutenant Governor of Quebec, to the Earl of Shelburne, one of His Majesty's principal Secretaries of State, dated December 10th, 1767.[10]

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[1] Canadian Archives, Q 5-1, p. 269. This is printed in full in Report on Canadian Archives for 1888, p. 44.

[2] See Carleton to Shelburne, p. 288.

[3] See Draught of Ordinance *re* French Land Tenures, p. 292.

[4] See Carleton to Shelburne, p. 294.

[5] Canadian Archives, Q 18 A, p. 88.

[6] Canadian Archives, Q 18 A, p. 131.

[7] See Report of Yorke and de Grey, p. 251.

[8] No immediate action was taken or this Report on the Instructions accompanying it, for reasons given in the Resolution of Privy Council of Aug. 28th 1767. See p. 286.

[9] This document has not as yet been discovered.

[10] This and the following documents, except the last, are connected with questions of revenue, and relate to that portion of the Report which is omitted. This particular letter will be found in Canadian Archives, Q 5-1, p. 299.

SESSIONAL PAPER No. 18

N° 12. Copy of a Letter from Lieutenant Governor Carleton to Grey Cooper Esquire, Secretary to the Lords Commissioners of His Majesty's Treasury, dated December 10th, 1767.[1]

N° 13. Officers proposed for the collection of the Provincial Duties at Quebec, and Salaries.[2]

N° 14. Provincial Duties for the Province of Quebec on Imports.[3]

N° 15. Copy of an Account of the Civil Establishment of the Province of Quebec for one Year.[4]

N° 16. Copy of an Estimate of the contingent and incidental charges of the Civil Establishment for the Province of Quebec for one Year.[5]

N° 17. Copy of an Abstract of the Imports at the Port of Quebec of certain Articles, on which Duties are proposed to be raised, for the years 1765, 1766 and 1767—And Estimate of the annual Revenue calculated from the said Importation.[6]

N° 18. Copy of a Letter from Guy Carleton Esquire Governor of the Province of Quebec, to the Earl of Hillsborough, one of His Majesty's principal Secretaries of State, dated March 15th 1769.[7]

Exd.

REPORT OF COMMITTEE OF COUNCIL ON ADMINISTRATION OF LAW BY JUSTICES OF THE PEACE.[8]

At the Council Chamber in the Castle of Saint Louis in the City of Quebec on Thursday the fourteenth day of September 1769.

PRESENT.

His Excellency Guy Carleton, Governor
The Honble William Hay. C.J
H. T. Cramahé, Thomas Dunn, Walter Murray, Colin Drummond } Esquires.

The Report of the Committee on the Administration of Justice by the Justices of Peace;

Read the Report of the Committee dated the 29th August and 11th instant, Appointed the 18th of August last to take into Consideration the present State of the Administration of Justice by the Justices of the Peace within this Province

[1] Canadian Archives, Q 5-1, p. 300.
[2] Canadian Archives, Q 5-1, p. 310.
[3] Canadian Archives, Q 5-1, p. 306.
[4] Canadian Archives, Q 5-1, p. 308.
[5] Canadian Archives, Q 5-1, p. 311.
[6] Canadian Archives, Q 5-1, p. 312.
[7] Canadian Archives, Q 6, p. 34. The parts referred to in the Report are given in note p. 392.
[8] Canadian Archives, Q 6, p. 146. Owing to complaints which had reached the Council as to the practices of some of the Magistrates of the District of Montreal, the Council took up the matter and addressed to all the Magistrates of that District a letter of remonstrance and advice. This was dated July 10th 1769, and is given in Q 6, p. 134. The present report covers the same ground and upon it was based the Ordinance of February 1st, 1770, which follows this report.

Read at the Board. Approved and the Attorney General directed to prepare an Ordinance in Consequence thereof:

Approved and Ordered to be Entered in this Book, and that the Attorney General[1] be directed to prepare an Ordinance in consequence of the New Regulations proposed to be made by the said Report.

"Quebec, 29th August &

"11th September 1769.

The Report Viz[t]

"At a Committee Appointed to take into Consideration the "State of the Administration of Justice under the Justices of "Peace in this Province.

"Present

"The Honble William Hey, President

"H. T. Cramahé
"Thomas Dunn } Esquires.
"Colin Drummond

"Who agreed upon the following Report

"In obedience to an order of Council bearing date the 18th day of August last. We have taken into our consideration the several Matters therein referred, in consequence of which we beg leave to represent to Your Excellency and the Council, that the several Authorities & powers of the Justices of Peace in Matters of property as contained in the Ordinance of September 1764.[2] Appear to us to have been very injudicious in their Original Institution, and in the exercise of them, more particularly within the District of Montreal exceedingly grievous and oppressive to the Subject. It is well known that in England, where the Justices of Peace are for the most part Men of large Fortunes, who have a Considerable interest in Common with the people over whom their Authority is exercised, no such power is entrusted to them either by the Commission itself, or any of the Various Acts of Parliament which relate to their Office: And tho the ill Advised construction of the great Courts established here

[1] At this time Francis Maseres, being desirous of returning to Britain, was granted, by Governor Carleton, a year's leave of absence. The Governor explained the circumstances in a letter to Hillsborough, of Oct. 3rd, 1769, and in which the lack of harmony between Carleton and Maseres is fully evidenced. At the close of the letter Carleton states that Henry Kneller had been appointed to act as Attorney General in the interim; hence upon Kneller fell the duty of draughting the new ordinance.

[2] The Ordinance of September 17th, 1764. See p. 205.

for the determination of property in the year 1764 Confined Originally in their Session to two Terms in the year and only now enlarged to three, might have made it necessary to Create Smaller Jurisdictions in order to conform in some Measure to the Ancient practice of the Colony, and to give a freer and quicker Circulation to the Course of Justice, yet we apprehend that even under those circumstances, the Authority given to the Justices hath been both too largely and too confidently entrusted, and requires to be retrenched, if not wholly taken away in almost every Instance.

But that is not all; what is still more unfortunate; we find even those powers large as they are, to have been in some instances extended, and a Jurisdiction usurped to the great prejudice of the parties whose property has been the Subject of it, without any right (as we conceive) to interpose in such Matters, as derived from that Ordinance, or any other Authority that has yet come to our knowledge: for, by the ill penning of that Ordinance, and for want of a Clause which should have expressly forbid them to intermeddle in those Matters, the Justices of Montreal have to our knowledge in one Instance, and probably in many others which have passed without notice, assumed to themselves powers of a Nature not fit to be exercised by any Summary Jurisdiction whatsoever in consequence of which Titles to Land have been determined & possessions disturbed in a way unknown to the Laws of England and inconsistent with the Solemnity and Deliberation which is due to Matters of so high and important a Nature. And we are not without Information, that even in cases where personal property only has been in dispute, One Magistrate in particular under pretence that it was at the desire & request of both the contending parties, has by himself exercised a Jurisdiction Considerably beyond what the Ordinance has allowed even to three Justices in full Court at their Quarter Sessions.

From an Omission of a Similar nature and for want of ascertaining the manner in which their Judgements were to be enforced, we find the Magistrates to have assumed another very high and dangerous Authority, in the exercise of which the Goals are constantly filled with numbers of unhappy Objects, and whole families reduced to beggary and ruin. It being a Common practice and the usual Method of their process to take Lands in Execution and order them to be sold for the payment of ever so small a debt, or in case there are no Lands to satisfy the debt to commit the party to prison the sad Consequences whereof, and wretched Servitude to which a people are reduced whose persons and property are thus exposed, we believe we *

Sic.

not enlarge upon further, then to observe that the rapid Sale of Estates under Judgements out of the Common Pleas, or even the Supreme Court itself seems to be within the same Mischief and to require some effectual tho' perhaps a different remedy.

If any thing could yet be wanting to Compleat the Misery of such a People it would be the consideration that those powers Originally calculated for the ease of the Suitor and to facilitate the course of Justice should become the very Instrument of his Oppression and ruin, and instead of affording a Cheap and expeditious remedy for the recovery of small Debts should either direct or Connive at such a Complicated and expensive Mode of Process, as (if we may collect from one instance where the Expence of suing for a debt of Eleven Livres Amounted to Eighty four) must either deter the Creditor from pursuing a Just tho small debt, or, ruin himself or his adversary and perhaps both in the pursuit of it, which will probably always be the case where the Office of a Justice of Peace is considered as a Lucrative one and must infallibly be so where it is his principal if not only dependence.

In Justice, however, to the Magistrates of this District we ought to Declare that these Observations are not designed to extend to them.

For these and many other reasons which we are tender of enlarging upon, we conceive it to be high time to put a Stop to this unequal, Wasteful and Oppressive mode of administering Justice. And to Substitute some other in its place, more conformable to the System which formerly prevailed here, and less liable to the Objections which so manifestly Accompany this both in its Institution & Practice.

And for that purpose we recommend it to Your Excellency in the first place to appoint an other Judge for the Court of Common Pleas at Montreal and as a Compensation for the Extraordinary duty which will be required that their Salaries may be made £200 p. an^{m}

And 2^{dly} that an Ordinance should be immediately prepared which after setting forth in a Preamble some or all of the Grievances here mentioned, And the good Disposition in Government to attend to and redress the Injuries Complained of by the Subject as soon as they are made known to them, should abrogate and annull all that part of the Ordinance of 1764 which gives Authority to the Justices of Peace to determine Matters of Civil property in any shape or manner whatsoever, and expressly define their power to be barely such as the Commission itself Warrants and the Ordinances of this Province (except that of September 1764) has entrusted to them.

It should then after reciting the reasons, namely to prevent a failure of Justice And to supply a Quick and Competent Jurisdiction in Matters of small Value not at present Cognizable in either of the great Courts, give the Court of Common Pleas a Jurisdiction, which at present it has not, to hold plea in all Matters however trifling the demand may be and direct that both Courts should sit in Quebec and Montreal once in every week. (seed and Harvest time and a fortnight at Easter & Christmas excepted)thro'out the year. But that for all Matters under the sum of Ten pounds, one Judge only need be present.

In the latter case their Process should be by summons, And in all Executions where the debt and Costs does not Amount to Ten pounds Halifax Currency no Capias ad satisfaciendum to Arrest or detain the body should issue but a *fieri* facias against the Goods and Chattels only (with an Express exception to Beasts of the Plow) unless the Party chuses that his Land should be sold, in which case he should sign upon the back of the Process his Consent and request for that purpose. It might not be amiss too to give the Judges a power to levy the debt where it was under Ten pounds by instalments, for it often happens that a Debtor is exceedingly distressed to pay tho' but a Moderate Sum and upon the instant of demand which yet by his Industry or by some event near taking place but which he Cannot anticipate, he might pay with ease to himself at given times.—Upon an Affidavit of this Sort We think they be allowed to mark upon the Writ *to be levied by Instalments* 20 Sh^{s} on such a day. 20. at such other And the remainder at such other.

But these times ought to have some Limitation and perhaps should not exceed 3 Months for the last payment.

If the Judge has reason to suspect that the party secretes his Effects or has disposed of them after the Commencement of the suit in order to avoid their being taken in Execution, he should be at Liberty to issue Process against the Lands immediately. and for want of them to commit to prison till the Debt is satisfied.—The truth of which should be examined upon Affidavits. In all other matters, where the debt or Demand is above the Value of 10 pounds they should proceed as usual except that where Lands are taken in Execution, they should be made subject to the debt or demand immediately from the day of the date of the Writ, and avoid all Subsequent Sales and Mortgages or any other disposition or Incumbrance of them, but not absolutely sold for six Months, after Several Publications in the Gazette, and Notice affixed at the Church door of the Parish in which the Lands lye and other Neighbouring Parishes.—nor should the sale even then be good 'till a Report was made to one of the Judges

of the Court of the quantity and produce and Condition of the Lands with the Amount of the Purchase Money and the Sale Confirmed by him.

It is difficult if not impossible exactly to ascertain the Quantum of Expence in recovering these small Debts, but we recommend it to the Gentlemen who preside in these Courts to reduce it as much as possible, and we have no doubt but they will give a proper attention to a matter so interesting to the Honour of the Crown and the Convenience and ease of the Subject.—

The Administration of Justice in causes of small Consequence we apprehend will be tolerably well provided for in the Towns of Quebec and Montreal upon this Establishment more especially if there be added (as perhaps may be necessary at least Convenient,) One Officer of Justice in each, who might decide in all Causes to the value of Fifty Shillings Current Money and enforce his decision by distress and Sale of the Defend^{ts} goods only.

These Officers to be Appointed by your Excellency, by Special Commission independant of the General Commission of the Peace (tho' it would be adviseable for them to have both, in the Nature of the Intendants Subdelequis they may perhaps be well appointed by Virtue of the Powers given to Your Excellency in your Commission, but we rather recommend it to be done by an Ordinance.

And You should be impowered to Appoint more of these Officers in different parts of the Province as the Circumstances and Situation of things may require, and as in your discretion, they may appear to be necessary whose Jurisdiction might be at least equal to what was given to a single Magistrate under the Ordinance of Septem^{r} 1764.

These are the observations that have Occurred to us upon this Subject: We believe the regulations here proposed will be found to be Salutary, and meet the Grievances at present so loudly and so Justly complained of, And we Accordingly recommend them to be immediately Carried into Execution.

One observation however has escaped us, which we beg leave to add, with Regard to the Assize of Bread which by an Ordinance of this Province bearing date 3^{d} of September 1764,[1] is directed to be regulated by 3 Justices of the Peace ; And tho this Jurisdiction will still be preserved to the Justices, yet we are apprehensive that they will be indisposed to exercise it, if they should

[1] "An Ordinance, Relating to the Assize of Bread, and for ascertaining the Standard of Weight and Measures in the Province of Quebec." Sept. 3rd, 1764. See "Ordinances made for the Province of Quebec, &c." Que. 1767.

resent the Deminution of their Authority which the Regulations we have proposed are designed to make.—That Authority therefore very usefull and necessary to the publick should be transferred in case of their neglect to the two Judges of the Common Pleas, and the Justice who has a Commission in small Matters in the way that we have recommended.

(signed) "W. Hey. P"

AN ORDINANCE FOR THE MORE EFFECTUAL ADMINISTRATION OF JUSTICE, AND FOR REGULATING THE COURTS OF LAW IN THIS PROVINCE.[1]

Preamble.

Whereas it has been found by Experience, that the several Provisions contained in an Ordinance, bearing Date the Seventeenth Day of September One thousand, seven hundred and Sixty four, and intituled, amongst other Things, "An Ordinance for regulating and establishing the Courts of Judicature," by virtue of which certain Powers and Authorities are given to the Justices of the Peace for this Province, as well separately as collectively, to hear and determine in matters of private Property between Party and Party, instead of answering the good purposes for which they were ordained, have become an intolerable Burthen to the Subject, and proved the means of great Disquiet, Vexation, and Oppression.

Authority of the Justices in Matters of Private Property taken away;

It is therefore Ordained and declared, by His Excellency the Captain General, and Governor in Chief of this Province, by and with the Advice and Consent of the Council of the same, That from and after the day of the Date of the Publication of this Ordinance, all Jurisdiction, Power, and Authority in Matters of Private Property, belonging to or exercised by any Justice or Justices of the Peace for this Province, or any District, Part, or Member of the same, except Such as have already procured, or hereafter may procure a Special Commission for that Purpose, under the Hand and Seal of the Governor, or Commander in Chief for the Time being, shall be clearly annulled,

[1] Canadian Archives, Q 62, p. 528. As indicated above (note 1 p. 396) acting Attorney General Kneller was required to draught an Ordinance based upon the Report of the Council on the subject of the administration of Law by the Justices of the Peace. This draught was read in Council, Jan. 10th, 1770, and referred to a committee consisting of H. T. Cramahé, Thos. Dunn, and Colin Drummond. On the 1st of February the committee reported the draught, with certain amendments, and the ordinance as amended was approved and adopted, and ordered to be translated into French. On February 14th the translation was read, and the ordinance and translation were ordered to be published in the *Gazette*. The ordinance when published gave great offense ot the Magistrates in the District of Montreal, who under the leadership of Charles Grant, a member of one of the leading British mercantile houses engaged in the Canadian trade, prepared a memorial in remonstrance. See Q 7, p. 95. This, Carleton in forwarding, attempts to answer. See Q 7, p. 89. Among other protests entered was one by a French Magistrate, Pierre de Calvet, under the title, "Observations sur l'Ordonnance du 1er février dernier." See Q 7, p. 274.

except from Such as have a Special Commission for that Purpose.

taken away, and determined; and that from and after the day of the Date of the Publication, aforesaid no Justice or Justices of the Peace, except as before excepted, shall have any Power or Authority to hear, examine or determine any Matter of Private Property between Party and Party, or to make, pronounce, or deliver any Judgment, Sentence, Order, and Decree, or to do any Judicial Act whatsoever touching the same.

Clauses in the Ordinance of September 1764, repealed;

And it is further Ordained and declared by the Authority aforesaid, That from and after the Day of the Date of the Publication aforesaid, the following Clauses or Parts of an Ordinance, bearing Date the Seventeenth day of September One thousand, seven hundred and sixty-four, and intituled, amongst other Things, "An Ordinance for regulating and establishing "the Courts of Judicature" shall be repealed, and the same are hereby repealed and absolutely revoked and made void ; that is to say, "And Whereas it is thought highly necessary for the "Ease, Convenience, and Happiness of all His Majesty's loving "Subjects, that Justices of the Peace should be appointed for the "respective Districts of this Province, with Power of determining "Property of small Value in a summary way ; it is therefore "further ordained and declared by the Authority aforesaid, "and full Power is hereby given and granted to any one of His "Majesty's Justices of the Peace within their respective Districts, "to hear and finally determine in all Causes or Matters of Property, "not exceeding the Sum of Five Pounds Current Money of "Quebec ; and to any Two Justices of the Peace within their "respective Districts, to hear and finally determine, in all "Causes or Matters of Property not exceeding the Sum of Ten "Pounds said Currency; which Decisions being within, and not "exceeding the aforesaid Limitation, shall not be liable to an "Appeal : And also full Power is by the Authority aforesaid "given and granted to any Three of the said Justices of the "Peace to be a Quorum, with Power of holding Quarter Sessions "in their respective Districts every Three Months, and also "to hear and determine all Causes and Matter of Property which "shall be above the sum of Ten Pounds, and not exceeding "Thirty Pounds, Current Money of Quebec, with Liberty of "Appeal to either Party to the Superior Court, or Court of King's "Bench ;" and all and every other Ordinance or Ordinances, and all and every Article, Clause or Sentence, in them and every of them, by which any Jurisdiction, Power, or Authority, to hear and determine in Matters of Private Property between Party and Party, is given, limited and Appointed to any Justice or Justices of the Peace, for so much as concerneth the same, shall

and all others that give Authority to the Justices to determine Matters of private Property.

also be repealed, and the same are hereby repealed, and absolutely revoked and made void.

Penalty upon the Justices for Disobedience.

And it is further ordained and Declared by the Authority aforesaid, That from and after the Day of the Date of the Publication aforesaid, if any Justice or Justices of the Peace, or any other Person whatsoever, shall offend or do anything contrary to the Purport, true Intent, and Meaning of this Ordinance, he or they so offending, besides being liable to answer the same in a Criminal way, Shall also forfeit and lose, unto the Party grieved by any Thing so done, his, her, or their treble Damages, which he, She, or they shall sustain and be put unto by means or Occasion of any Thing so done as aforesaid ; the same to be recovered in any of the Courts of Record in this Province, by Action of Debt, or in any other way, and Manner, according to the known and Established Practice of the Court in which such Action shall be brought.

Proviso not to extend to any of the Powers in the Commission of the Peace;

Provided always, That nothing contained in this Ordinance, shall extend, or be construed to extend, to take away, determine, or abridge any of the Powers given and granted to any Justice or Justices of the Peace for this Province, by Virtue of His Majesty's Commission of the Peace to them directed, or to restrain or hinder them in the exercise of any other Powers to them limited and appointed by any other Ordinance or Ordinances, save and except such as relate to the Administration of Justice in Matters of private Property, between Party and Party only : but such Justice or Justices of the Peace is and are hereby further authorized and required to do and execute all and every matter or Thing to him or them enjoined by Virtue of the said Commission of the Peace, and also to hear and determine all Penalties and Forfeitures arising from the Breach of any Ordinance or Ordinances, and to proceed therein in the same Manner as he or they would have done if this Ordinance had not been made.

nor to any Judgment already pronounced and not executed; nor to any Writ of Execution already issued, and not returned.

And provided also, That nothing herein contained shall extend, or be construed to extend to reverse, alter, or suspend any Judgment or Judgments already pronounced or given by any Justice or Justices of the Peace, upon which no execution has yet been Awarded; or to supersede, vacate, alter, or suspend any Writ or Writs of Execution already awarded, and not yet returned ; but the said Justice or Justices of the Peace is and are hereby further authorized and required to award Execution upon such Judgments already pronounced and given, and the Provost Marshal is hereby authorized and required to enforce the same, and also to proceed upon such Writs of execution as are already

but the same to be perfected as if this Ordinance had not been made.

awarded and not yet returned, and to levy the Debt and Costs and make such Return to the Justice or Justices awarding the same, as he would have done before the Publication of this Ordinance.

Preamble to the Clause for erecting a new Jurisdiction.

And whereas the providing an Easy, plain, and summary Method of Proceeding for the Recovery of small Debts, with a due Regard at the same time to a Certain Degree of Solemnity and Deliberation, which ought ever to accompany the Administration of Public Justice, very much contributes to promote Industry, and to support and Encourage useful Credit :

All disputes for Sums not exceeding £12 to be heard before the Judges of the Courts of Common Pleas only, except as after excepted.

It is therefore ordained and declared by the Authority aforesaid, That from and after the Day of the Date of the Publication aforesaid, all Manner of Disputes and Differences between Party and Party for any Sum not exceeding Twelve Pounds Currency of this Province, except as is hereinafter excepted, shall be heard, tried, and adjudged before the Judges of the Courts of Common Pleas for the Time being only, who are hereby authorized and required to take Cognizance thereof, and the same to hear, adjudge and finally determine as to them shall seem just in Law and Equity, any Ordinance or Ordinances, or any Clause, Matter or Thing in them or any of them contained, to the contrary hereof in any wise notwithstanding.

Preamble to the Clause for fixing the Court of Common Pleas at Montreal.

And whereas some Inconveniences have arisen from the present Practice of adjourning the Court of Common Pleas from Quebec to Montreal, and from the want of a fixed, settled, and Established Court for the hearing and determining all matters arising within the District of Montreal, before Judges specially appointed for that District, and constantly residing within the same;

Court of Common Pleas at Montreal constituted an Independant Court, with original Jurisdiction,

It is further Ordained and Declared, by the Authority aforesaid, That from and after the Day of the Date of the Publication of this Ordinance, the Court of Common Pleas, heretofore held by Adjournment at different Days and Times in the Town of Montreal, and considered and taken to be a Part or Member of the Court of Common Pleas established at Quebec, shall be, and it is hereby constituted a Court of Record, with Original Jurisdiction of its own, independent of, and no wise connected with the Court of Common Pleas established at Quebec, which Court of Common Pleas for the District of Montreal shall, for the future, be held before Judges constantly residing within the said Town of Montreal, who shall have the same Power and Authority, and the same is hereby given and granted

in all Matters arising within the District of Montreal,

to them to hear and determine within the District of Montreal, and to award Execution, and to do and execute all and every Matter or Thing touching the Administration of Justice, in as full and ample a manner as is now or has at any Time been used,

practised, or done by the Court of Common Pleas established at Quebec, in and for the District of Quebec. : And that from and after the Day of the Date of the Publication aforesaid the said Court of Common Pleas in the Town of Quebec, and the said Court of Common Pleas in the Town of Montreal, shall be taken and adjudged to have each their separate Jurisdictions, independent of and unconnected with each other, that is to say, the said Court of Common Pleas at Quebec, in and over all matters and Things arising within the District of Quebec, and the Court of Common Pleas at Montreal in and over all matters and Things arising within the District of Montreal.

in the same manner as the Court of Common Pleas in Quebec, in all matters arising within the District of Quebec.

Provided always, and it is hereby further Ordained and Declared by the Authority aforesaid, that from and after the Day of the Date of the Publication aforesaid, where any Person or Persons, against whom Judgment shall be obtained, in either of the said Courts of Common Pleas, shall not have any Lands, Goods, or Effects, wherewith to satisfy the said Judgment within the Jurisdiction of that Court wherein such Judgment shall have been obtained, but such Person or Persons shall have Lands, Goods, or Effects, within the Jurisdiction of the other Court of Common Pleas, that then and in that Case it shall and may be lawful for the Judge or Judges of the Court of the District in which such Judgment shall have been obtained to award Execution to the Provost Marshal of the District in which such Lands, Goods, or Effects shall be found, who shall, before he proceeds to do anything therein, carry the said Writ of Execution to one of the Judges of the Court of the District in which such Lands, Goods, or Effects shall be found, who is hereby authorized and required to endorse the same ; which Writ of Execution, being so indorsed as aforesaid, the said Provost Marshal of the District in which such Lands, Goods, or Effects shall be found, shall proceed to levy the Debt and Costs, and make Return thereof, under his Hand and Seal, to the Judge or Judges of the Court from whence such Writ of Execution was originally awarded ; and such Writ of Execution, together with the Return thereof, under the Hand and Seal of the Provost Marshall subscribing the same, shall be by him conveyed, so soon after the making and signing thereof, as conveniently may be, to the Provost Marshal of the District from whence such Writ was originally awarded, who is hereby authorized and required to deliver the same into the Court of Common Pleas from whence such Writ was originally awarded, on the First Court Day next after the coming of the said Writ and Return into his Hands ; and the Judge or Judges of the said Court of Common Pleas, by whom such Writ of Execution was originally awarded, are hereby authorized and

Proviso, that both Courts shall have a concurrent Jurisdiction in awarding Writs of Execution.

Where the Defendant has no Lands or Goods within the District where the Cause was tried,

Execution may be awarded into the other District;

And the Return must be made by the Provost Marshal, in the Court from whence it was originally awarded;

but it need not be made in Person.

required to receive the same ; and the same shall be as valid and effectual, to all Intents and Purposes, as if the Provost Marshal making and subscribing the same had himself been present, and delivered the same into the Court with his own Hands.

The Provost Marshal executing the Writ, only answerable before the Court of the District which awarded the Same.

Provided nevertheless, That the Provost Marshal executing the said Writ, and making Return thereof as aforesaid, only shall be answerable as well for the Truth of the said Return, as for any Misbehaviour, Omission, or Neglect in the manner of executing the said Writ, or making Return thereof before the Judge or Judges of the Court from whence such Writ of execution was originally awarded, and not before the Judge or Judges of the Court of the District to which he belongs :—And in case any Person or Persons against whom such Judgment as aforesaid shall be obtained, not having any Lands, Goods, or Effects within the Province, wherewith to satisfy the said Judgment, shall usually reside without the Jurisdic ion of the Court in which such Judgement shall be obtained, or being, at the Time of obtaining the said Judgment, resident within the same, shall alter his or their place of Residence, and withdraw his or their Person, or Persons from the Jurisdiction of the Court in which such Judgment shall have been obtained, it shall and may be lawful for the Judge or Judges of the said Court in which such Judgment shall have been obtained, in all cases where such Writ may legally issue, to award a Writ or Writs of Capias ad Satisfaciendum to the Provost Marshal of the District in which such Person or Persons shall reside or be found, which Writ or Writs, being so indorsed as aforesaid, the said Provost Marshal of the District in which such Person or Persons shall reside or be found, shall proceed to execute the same, and to arrest the Body or Bodies of such Person or Persons, and him or them to convey to the Common Gaol of the District in which such Person or Persons shall be arrested, there to remain till the Debt and Costs are paid, or he or they be otherwise delivered by due Course of Law.

The same in Writs of Capias ad Satisfaciendum.

and the Defendant to be conveyed to the Gaol of the District in which he is arrested.

Preamble to the Clause for keeping the Courts open throughout the year.

And in order to avoid the Delays and Inconveniences occasioned by the present practice of holding the said Courts of Common Pleas at certain fixed Times and Periods, according to the Directions of the aforesaid Ordinance of September One thousand, seven hundred and sixty-four, and to the Intent that the Judges of the said Courts may be enabled to give more speedy and effectual Relief in all Cases, as well where the matter or Thing in Demand shall exceed the Sum of Twelve Pounds, and where it falls short of or is equal to it ; it is further Ordained and Declared by the Authority aforesaid—That from and after the Day of the Date of the Publication of this Ordinance, the said Courts of Common Pleas, as well at Quebec, as at Montreal,

Courts to sit all the Year.

except Sundays, and other times of Vacation,

Without Regard to Terms, as appointed by the Ordinance of September 1764. or any other ordinances; all which, as far as they relate to the Sitting of the Said Courts, are repealed.

shall be constantly open to the Suitor, and they are hereby required to be kept open at all times throughout the Year, except on Sundays, and at Seed time, a Month at Harvest, and a Fortnight at Christmas and Easter, and except during such Vacation as shall be from Time to Time appointed by the Judges for making their respective Circuits throughout the Province, Twice in every Year : and the Judges of the said Courts are hereby authorized and required to issue their Process, and to do and execute all and every other Matter or Thing touching the Administration of Justice, without Regard to Terms or any stated Periods of Time, as Limited and appointed by the Ordinance of September, one thousand seven hundred and sixty-four, or any other Ordinance, custom or usage whatsoever, all and every of which Ordinance, or Ordinances, so far as they relate to the Sitting of the said Courts, or prescribe any Limitations of Time for that Purpose, are hereby annulled, revoked, and made Void, in as full and ample a manner as if they were herein particularly enumerated and set forth.

The Judges to sit one day in every week at their Discretion for matters above £12;

Provided always, and it is further Ordained and Declared by the Authority aforesaid, That the Judges of the said Courts of Common Pleas, as well in Quebec as in Montreal, shall appoint One Day in every week (except Sunday, or in such Vacation as aforesaid) at their Discretion for the hearing and determining all matters wherein the Cause of Action shall exceed the Sum of Twelve Pounds, which Day shall be declared at the rising of the Court on the Court day next preceding; and no Adjournment of the Court shall be made for any longer time than One Week, upon any Pretence or Ground whatsoever.

and on every Friday, except in Vacation for matters not exceeding £12,

Provided also, That Friday in every week, except it be in such Vacation as aforesaid, shall be always a Court Day, as well in the Town of Quebec as Montreal, for the hearing and determining all Matters wherein the Cause of Action shall not exceed the Sum of Twelve Pounds as aforesaid; on which Day one of the Judges of the said Courts of Common Pleas shall attend, as well at Quebec as at Montreal, for the Dispatch of Business, who is hereby authorized and required to proceed to hear and determine all matters where the Cause of Action shall not exceed the Sum of Twelve Pounds, in the Absence of the other Judge—such Judge being prevented from attending by Sickness, or any other Lawful and reasonable Cause of Excuse; and every Judgment, sentence, Order or Decree, given, made or pronounced, and every Writ of Execution awarded by such Judge, in Matters where the Cause of Action shall not exceed the Sum of Twelve Pounds as aforesaid, shall be in all Respects as binding and valid as if both the Judges of the said Court had been present and

One Judge sufficient in Matters not exceeding £12, the other having a reasonable Cause of Absence.

concurred in giving, making or pronouncing such Judgment, or in awarding such Writ of Execution.

And, to the Intent that this Part of the Jurisdiction of the said Courts of Common Pleas, which attaches upon matters where the Value of the Thing in Demand does not exceed the Sum of Twelve Pounds, and the manner and Form of proceeding therein may be clearly comprehended, so as to enable the Party, either by himself or his Agent, to Prosecute his own means of Redress with Dispatch, certainty, and Moderation in Point of Expence; It is further Ordained and Declared by the Authority aforesaid, That from and after the Day of the Date of the Publication aforesaid, in all Matters where the Cause of Action shall not exceed the Sum of Twelve Pounds Currency, no Process whatsoever shall issue against any Defendant or Defendants until the Plaintiff or Plaintiffs, or his, her or their Agent or Agents shall have first produced and left with, or being unable to write or read, shall have first procured, from the Clerk of the Court in which such Action is intended to be brought, who is hereby ordered and required to make out the same, a Declaration either in English or French Language, according to the following Form.

No Process to issue against any Defendant till the Plaintiff has filed his Declaration.

Form of Declaration.

Quebec
Montreal

Day of 177

A B – Plaintiff

C.D– Defendant

The Plaintiff demands of the Defendant the Sum of
due to the Plaintiff from the Defendant, for
which Said Sum, though Often demanded, still remains due; therefore the Plaintiff demands Judgment.

Manner of taking out the Summons,

Which Declaration, being so produced to and left with, or so as aforesaid made out by the Clerk of the Court in which such Action is intended to be brought, shall be filed by the Said Clerk with the other Records of the Court, and the said Clerk shall immediately make out an attested Copy thereof, and upon the back of such Copy Indorse a Summons, to which he shall procure the name of One of the Judges of the said Court to be set, commanding the Defendant either to pay the Debt and Costs to the Plaintiff, or else to appear upon some subsequent Court Day, according to the Discretion of the Judge who signs the same, Regard being had to the Distance of the Defendant's Place of Residence, and the means of Communication therewith, which Summons shall be in the following Form.

and attesting the same

To C. D. the Defendant in this Action.

Form of the Summons.—

You are hereby commanded and required to pay to the Plaintiff the within named Sum of together with

Costs, or else to be and appear, either in Person, or by your Agent, before me at the Court House of the Town of Quebec / Montreal together with your Witnesses, if any you have, on Day of on which Day the Matter of Complaint against you, as contained in the within Declaration, will be heard and finally determined, otherwise Judgment will be given against you, by Default in this Action.

E. F. Judge of the Court of Common Pleas.

Fees for the same.

And this Attested Copy of the Declaration, together with the Writ of Summons, indorsed and signed as aforesaid (for all which the Clerk of the said Court shall receive from the Plaintiff the Sum of Six Pence, and no more, where the Original Declaration shall be produced and delivered to him, and the Sum of one shilling, and no more where he shall make out the Original Declaration himself, at the Request of the Party) shall be delivered to the Plaintiff or Plaintiffs, or his, her or their Agent or Agents, who shall convey, or cause the same to be conveyed, to One of the Bailiffs of the Parish in which such Defendant

Manner of serving the same.

resides, who is hereby authorized and required to serve the same upon the Defendant personally, if he can be found, or otherwise upon his Wife, Son, Daughter, Servant, or some other grown Person, at his the said Defendant's Dwelling House, or usual Place of Abode, and at the same Time to shew him, her, or them the attested Copy of the Declaration, together with the Writ of Summons annexed, under the Hand of the Judge issuing the same, and to acquaint him, her or them, with the Contents thereof, and to leave a Copy of the same at the said House;

Manner in which it Shall be attested by the Bailiff.

and the Bailiff serving such Process as aforesaid, is hereby further authorized and required to attest the said Service at the Foot of the said Writ of Summons, together with the Day and Time of serving the same, according to the following Form:

Form of Attestation of the Service.

I. G. H. Bailiff of the Parish of did on Day of Personally serve the within-named Defendant with the Copy of the Declaration, and Writ of Summons annexed, by shewing him the same, and acquainting him with the Contents thereof, and by leaving a Copy of the same at his House, with the of the said Defendant, such being of the age of or thereabouts.

Shall be delivered to the Plaintiff, if Personally demanded. Fee of one

And this Copy of the Declaration, with the Writ of Summons annexed, and the Certificate of the Service so made by the Bailiff, shall be delivered by him to the Plaintiff, if thereto personally required by the Plaintiff himself, who shall pay the Bailiff,

Shilling to the Bailiff, to be allowed in Costs, otherwise to be returned by the Bailiff,

who shall be allowed the Charges.

for the Service and Attestation as aforesaid, the Sum of one Shilling, and no more, which Sum of one Shilling, together with the Charges of issuing and returning the said Process, shall be allowed him in his Costs, in Case he shall obtain Judgment against the said Defendant in the Action; but in case the said Plaintiff shall not personally demand the Custody of the said Process, after such Service and Attestation as aforesaid, that then the Bailiff so serving and attesting the same shall forthwith return the same to the Court of Common Pleas from whence such Process issued, who shall direct the Costs of returning the same, together with the Fee of one Shilling for the Service and Attestation thereof, to be paid to the said Bailiff by the Defendant, if he shall be condemned in the Suit, or by the Plaintiff, if he shall discontinue the Action, or otherwise fail in the Proof of the Matter contained in his Declaration.

Defendant not appearing after Service of the Declaration and Summons,

Cause to be heard on the part of the Plaintiff only.

Plaintiff not appearing or appearing and not Prosecuting or failing in Proof of the Debt, Defendant shall be dismissed and the Plaintiff Condemned in Costs. Execution not to be awarded, till the Court Day next after Giving Judgment, except the Defendant is about to leave the District; on which day Execution shall be awarded to the Bailiff of the Parish where the Defendant resides, or to some other Discreet Per-

And it is further ordained and Declared, by the Authority aforesaid, That if any Defendant, after having been duly summoned as aforesaid, shall refuse to pay the said Debt and Costs, and shall not appear, either by himself or Agent, before the Court, at the Time and Place mentioned in the said Writ of Summons, it shall and may be Lawful for the Judge or Judges of the said Court, upon view of the Certificate of the said Bailiff as aforesaid, or other due Proof of the Service of the said Writ of Summons in Manner aforesaid, to hear the Cause on the Part of the Plaintiff or Plaintiffs only and to make such Order, Decree, or Judgment, and to award such reasonable Costs of Suit, as to him or them shall seem most agreeable to Equity and good Conscience: And if upon the Day of Return of such Writ, or on such other Day, as shall be specially appointed by the Court for the hearing of the Cause, the Defendant so summoned as aforesaid shall appear, either by himself, or his Agent, and the Plaintiff shall not appear, either by himself or his Agent, or appearing shall not Prosecute, or Prosecuting shall fail in the Proof of the Matter contained in his Declaration, that then upon due Proof that such Defendant was served with such Process, it shall and may be lawful for the Judge or Judges of the said Court to dismiss the said Defendant, and decree and award him such Costs as in his or their Discretion shall seem meet, and to award Execution against the said Plaintiff for Recovery and levying thereof, in the same manner as other Executions are hereby directed to be awarded against the Defendant, where the Plaintiff shall obtain Judgment in the Action.

Provided always, and it is hereby further Ordained and Declared by the Authority aforesaid, That no Execution shall be awarded against any Defendant until the next Court day

son residing in or near the Same;

after that on which Judgment shall be given in the Cause, to the Intent that the Party may have time to satisfy such Judgment by paying the Debt and Costs into the Hands of the Plaintiff or Plaintiffs, or his, her, or their Agent, or to the Clerk of the Court, who is hereby Authorized and required to receive the same for his, her, or their Use, unless it shall be made appear to the Judge or Judges pronouncing such Judgment that the Defendant or Defendants is or are preparing to leave the District, or otherwise to defeat the Plaintiff of the Effect of his, her, or their Judgment, in which case it shall and may be Lawful for the Judge or Judges pronouncing the said Judgment to award execution immediately; But in Default of such Payment as aforesaid, that then it shall and may be Lawful for the Judge or Judges giving such Judgment, on the Friday next ensuing the said Judgment, to award the Execution under his or their Hand and Seal, directed to the Head Bailiff of the Parish wherein the Defendant resides, or to some other discreet Person dwelling in or near the said Parish, whom the Judge or Judges shall think proper to name for that Purpose, and which he or they are hereby authorized and impowered to do, commanding him to levy the Debt and Costs, together with his Fees for levying and returning the said Writ (which Fee shall be expressed in the Warrant of Execution) out of the Goods and Chattels belonging to such Defendant only, with an Express exception nevertheless therein contained to his, the Party's, Beasts of the Plough, Implements of Husbandry, Tools of his Trade, and one Bed and Bedding, unless the other Goods and Chattels of such Defendant or Defendants shall prove insufficient, in which case such Beasts of the Plough, Implements of Husbandry, and Tools of his Trade, shall be sold, but not the Bed and Bedding; and the said Bailiff or other Person, to whom such Writ of Execution shall be awarded as aforesaid, shall, before he proceeds to do any Thing therein, give Notice at the Church Door of the Parish wherein such Writ is intended to be executed, immediately after Divine Service, both Morning and Evening, on Two successive Sundays next after the coming of the said Writ, of the Day and Time appointed for the Sale of the Defendant's Goods, on which Day he shall proceed to sell the same to the highest Bidder, and for the most Money he can get, till he shall have raised sufficient to discharge the Whole of the said Writ of Execution, after which, if any Goods remain in Execution, the same shall be immediately restored to the Defendant; and in case the Defendant or Defendants against whom such Writ of Execution as aforesaid shall be awarded, shall not have Goods or Chattels sufficient to satisfy the said Writ of Execution,

to be levied out of the Defendant's Goods and Chattels only Beasts of the Plough, Implements of Husbandry, Tools of Trade, and one Bed and Bedding, not to be sold, unless there are no other Goods, and even then the Bed and Bedding not to be Sold.

Bailiff to give notice for Two Sundays before he proceeds to the Sale of the Defendant's Goods.

Other Directions touching the Sale.

If Defendant's Goods & Chattels not sufficient to satisfy the Execution,

Bailiff to enquire of his Lands,

And to return the Quantity and Condition of them, whether Arable or Grass Land usually reserved for Hay;

If any Such,

the Court to issue another Writ, directing the Bailiff to enter upon the Lands at the time of reaping or mowing, and to set apart so much as will be Sufficient to Satisfy the Debt & Costs; and to sell the same upon the Land, returning the Overplus.

Penalty for obstructing the Bailiff in the Execution of his Writ.

either in the whole or in Part, that then the Bailiff, or other Person as aforesaid authorized, shall enquire whether the said Defendant or Defendants hath or have any Lands in his or their Possession or Occupation, or in the Hands of any other Person in Trust for him or them, lying within the Parish wherein such Defendant or Defendants shall reside, or elsewhere within the Jurisdiction of the Court from whence such Writ of Execution shall be awarded; and if the Bailiff, or other Person so aforesaid as authorized, shall be fully informed and satisfied that such Defendant or Defendants hath or have any Lands as aforesaid, such Bailiff, or other Person so as aforesaid authorized, is hereby required to make Return thereof upon the Back of the Writ, specifying the extent and Quality of the same, and particularly if any Part thereof be Land usually sowed with Corn, or Meadow Land reserved for Hay, and upon such Return it shall and may be Lawful for the Judge or Judges of the Court from whence such Writ issued, to issue another Writ to the Bailiff of the Parish in which such Lands lie, or to some other discreet Person, residing in or near the same, commanding him to enter upon such Arable or Meadow Land belonging to such Defendant or Defendants, at the proper Season, immediately after the reaping or mowing the same, and before any Part of the Produce thereof shall be removed and carried off, and of such Produce, whether of Corn or Hay, to set apart so much as in his Discretion he shall think sufficient to discharge the whole of the Writ so to him directed, and the same to sell upon the Land for the most Money that he can get, leaving the overplus, if any there be, upon the Land, for the use of the Defendant or Defendants.

And it is further Ordained and Declared by the Authority aforesaid, that if any Defendant or Defendants, or any Person or Persons by his or their Direction, after Notice to him or them of the coming of such Bailiff or other Person as aforesaid upon the Land (which Notice he is hereby required to give) shall make any Resistance, or prevent his coming upon the Land to execute the Writ, or otherwise disturb him in the execution of it, or shall remove or carry away all or any of the parcels of Corn or Hay, so as aforesaid set off, without having first satisfied the Whole of the said Writ of Execution, he or they so offending shall pay and forfeit, over and above the Sum so commanded to be levied, the Sum of Ten Pounds Currency of this Province, to be recovered in a Summary way, before one of the Judges of the Court issuing the said Writ of Execution, by the Person against whom such Offence shall have been committed, or any other Person who shall sue for the same.

Judges impowered to order the Debt to be levied by Installments.

Provided also, and it is hereby further Ordained and Declared, by the Authority aforesaid, That it shall and may be Lawful for any Judge or Judges issuing any Writ of Execution in Matters where the Cause of Action shall not exceed the Sum of Twelve Pounds as aforesaid, upon due Proof before him or them made of the distressed Circumstances of the Defendant or Defendants in the Action to indorse upon the same his or their Order to the Bailiff, or other Person as aforesaid, commanding him to levy and raise the same by Installments, in such Proportions, and at such Days and Times as to him or them shall seem meet.

so as the whole Time does not exceed Three Months from the time of awarding the Writ of Execution.

Provided nevertheless, That the whole of the Time so allowed, and given, shall not exceed the Space of Three months from the day of the Date of issuing such Writ of Execution; and provided also, that if it shall appear, upon due Proof thereof made before such Judge or Judges issuing such Execution as aforesaid, that the Defendant or Defendants hath, or have, at any Time after the Service of the Declaration and Writ of Summons as aforesaid, conveyed away or secreted all or any Part of his or their Goods, or Effects, in order to defeat the Plaintiff or Plaintiffs of his, her, or their Demand, that then and in such Case it shall and may be lawful to and for the said Judge or Judges immediately to award a Writ of Execution against the Body or Bodies of the said Defendant or Defendants, directed to the Bailiff or other Person as aforesaid, commanding him to arrest the said Defendant or Defendants, and him or them to convey to the Common Gaol of the District, there to remain till such Debt and Costs be fully satisfied, or other Order be made by the said Court for his or their Deliverance.

If the Defendant convey away or secretes his Effects, Court may award a Writ of Capias ad Satisfaciendum.

Preamble to the Clause for impowering Justices to determine matters to the Value of £3.

And whereas it may be of still further Utility and Convenience, and the means of extending the Benefit of these Regulations more generally throughout the Province, to constitute and appoint other Jurisdictions, by which Disputes of a still inferior Nature may be terminated, as well in the Towns of Quebec and Montreal, as in other parts of the Province remote from the Courts of Justice; It is further Ordained and Declared by the Authority aforesaid, That it shall and may be lawful to and for any Person or Persons as well within the Towns of Quebec and Montreal, as in other remote Parts of the Province, being thereto specially appointed by Commission under the Hand and Seal of the Governor, or Commander in Chief for the Time being, to hear and determine, and also to award Execution in all Causes where the matter in Question shall not exceed the Sum of Three Pounds, Current money of this Province, so as the

Their Authority under Special Commission.

Titles of Lands not to be drawn in Question in their Proceedings.

Title of Lands be not drawn in Question in any such Proceedings, in as full and ample manner as any Judge or Judges of either of the Courts of Common Pleas are hereby authorized and impowered to do in Matters where the Cause of Action shall not exceed the Sum of Twelve Pounds as aforesaid, any Thing to the Contrary hereof in this Ordinance notwithstanding;

Persons so authorized by Commission to observe the same Forms in their Proceedings as the Judges of the Courts of Common Pleas in Causes not exceeding £12.

and the Person or Persons so as aforesaid appointed by Commission, as well in the Towns of Quebec and Montreal, as elsewhere within the Province, are hereby authorized and commanded, in the Execution of the Powers to them entrusted of hearing, determining, and awarding as aforesaid, to keep and observe all the Rules, and Regulations herein prescribed, limited, and directed, to the Judge or Judges of the Courts of Common Pleas, in the Exercise of their Jurisdiction, in matters where the Cause of Action shall not exceed the Sum of Twelve Pounds, and to conform to the same, both in their Judgments and Process, as fully and perfectly as if the same were herein particularly set forth at large and enjoined; and all Bailiffs of Parishes, or other Persons to whom any Writs of Summons, Warrants of Execution, or any other Process whatsoever, in matters where the Cause of Action shall not exceed the Sum of Three Pounds as aforesaid, shall be directed by any Person or Persons so appointed, as aforesaid, are hereby authorized and required to pay due Obedience to the same, and cause the same to be executed, and Returns thereof to be made to the Person or Persons so appointed, issuing the same as they would do or make to any Judge or Judges, of the Courts of Common Pleas, if such Process had issued from him or them; provided that Such Person or Persons as shall be appointed for this purpose within the Towns of Quebec and Montreal shall not sit or hold any Court for the hearing and determining Matters within their Jurisdiction on any Friday, but on some other Day in every Week, according to their Discretion other than Friday, or in such Vacation as aforesaid.

Bailiffs & other Persons required to pay due Obedience to their Process.

Not to sit on any Friday, but on some other Day in every Week.

Preamble to the Clause for altering the present Method of selling Real Property under Executions.

And whereas great and manifold Inconveniences and Losses have arisen to the Proprietors of Real Estates in this Province, by having their Houses and Lands taken in Execution and exposed to sale for the Payment of small Debts, and also from the hasty and informal method of setting the same to sale, even in cases where the extent of the Judgment will admit of no other satisfaction;

No Execution against Houses or Lands where the Cause of Action does not exceed £12.

It is further Ordained and Declared by the Authority aforesaid, That from and after the Day of the Date of the Publication of this Ordinance, no Process whatsoever shall be awarded for the sale of any House or Houses, Land or Lands,

Tenement or Tenements, upon any Judgment or Judgments, where the Original Cause of Action shall not exceed the Sum of Twelve Pounds Current Money of this Province; and that from and after the Day of the Date of the Publication aforesaid, no Houses, Lands, or Tenements, taken in Execution upon a Judgment or Judgments obtained in His Majesty's Supreme Court of Judicature for this Province, or upon any Judgment or Judgments obtained out of the Courts of Common Pleas in Quebec or Montreal, shall be extended or sold by the Provost Marshal, or any Person whatsoever, unless the Personal Property of the Defendant or Defendants in the Action shall be found insufficient.

Nor any House or Land to be Sold but in Default of Personal Property.

Direction to the Provost Marshall touching the Sale of Real Estates.

Notice.

No sale till Six months after Notice.

Bailiff to publish the Sale also.

Fees of the Bailiff for such Publication.

And it is further ordained and Declared by the Authority aforesaid, That upon the issuing of any Writ of Execution for the sale of any Houses or Lands, or so soon after as may be, the Provost Marshal of the District in which such Houses or Lands shall lie or be shall cause the same to be advertized in the Quebec Gazette, both in English and French, and therein set forth, as near as may be, the Quantity and Condition of such Houses and Lands, together with the Terms and the Day of Sale, which Day of sale shall not be till Six Months after such Publication, and at the same Time, or so soon after as conveniently may be, he shall also cause a true Copy of the said Advertisement, both in English and French to be sent to the Head Bailiff of the Parish where such Houses or Lands shall lie or be, who is hereby ordered and required to fix the same upon the Door of such Parish Church, and to re-place the same, so often as it shall be removed, defaced, or rendered illegible by Time or Accident, and also to publish and declare the Contents thereof every Sunday at the Door of the said Church immediately after Divine Service, both in the Morning and Afternoon, that the same may be fully known and understood by the Inhabitants thereof, for which the said Bailiff shall receive, out of the Produce arising from the Sale, the Sum of One Spanish Dollar, to be paid by the Provost Marshal and allowed in his Accounts.

All Estates bound from the Day of the Judgment;

Provided always, and it is hereby, and by the Authority aforesaid, further Ordained and Declared, That from and after the Day of the Date of the Publication aforesaid, all Houses and Lands against which any Writ or Writs of Execution shall be awarded for the sale of the same, shall be taken to be, and they are hereby, and by the Authority aforesaid, declared to be obliged and bound in Law to pay and satisfy all and every Judgment or Judgments, which shall and may be obtained against the Owner and Proprietors thereof, from the Day on which such Judgment or Judgments shall be pronounced or given; and

And no Conveyance or Disposition good after the Date of Such Judgment.

that no Mortgage, Sale, or Assignment, or any Deed of Conveyance, or any Disposition without Deed whatsoever, howsoever, or to whomsoever, made after the Day on which such Judgment or Judgments shall be pronounced or given as aforesaid, shall defeat, avoid, suspend, or delay the Force and Operation of such Judgment or Judgments; but all and every such Mortgage, Sale, Assignment, Deed, and Disposition, shall be taken to be, and all and every of them are and is hereby declared to be fraudulent, as against the said Judgment, Creditor or Creditors, and to have no Validity, Power, Operation, or Effect whatsoever, to the Prejudice of such Judgment Creditor or Creditors.

Judges to mark on the Writ of Execution of Day of signing the Judgment;

And lastly, It is further Ordained and Declared by the Authority aforesaid; That all Judges and other Persons authorized to administer Justice, issuing any Writ of Execution, as well where the Cause of Action shall exceed the Sum of Twelve Pounds as aforesaid, as where it falls short of, or is equal to that Sum, shall and they are hereby authorized and required to mark upon such Writ of Execution the Day on which Judgment was given in the Cause, and if Two or more Writs of Execution shall be issued upon Judgment given the same day, against the same Defendant or Defendants, and so marked upon the Writs, such Execution shall have the same Privilege, and be satisfied in the same Proportions, and the Provost Marshal, Bailiff, or other Person, to whom such Writs of Execution shall be Awarded, receiving the same, is hereby authorized and commanded, after the sale of the whole of such Defendant or Defendants Real and Personal Estate, where the Said Writs shall be awarded against both, in case the same should not be sufficient to satisfy the whole of the said Judgments, to pay over and divide the Neat Produce of such Sale or Sales, after deducting his own Costs and Charges, amongst the several Plaintiffs, in Proportion to the Amount of their respective Judgments.

And in Case of Two or more Executions against the Same Defendant on the Same Day, to be Satisfied in equal Proportions.

(Signed) GUY CARLETON

Given by His Excellency Guy Carleton, Captain General and Governor in Chief in and over the Province of Quebec, Vice Admiral of the same, and Brigadier General of His Majesty's Forces, &c &c in Council, at the Castle of St. Lewis, in the City of Quebec, in the said Province, and passed under the Great Seal of the Said Province, on the First Day of February, in the Tenth Year of His Majesty's Reign, and in the Year of Our Lord One Thousand Seven Hundred and Seventy.

By His Excellency's Command

(signed) GEO: ALLSOPP
D. C. C.

PETITION FOR A GENERAL ASSEMBLY.[1]

To the King's most Excellent Majesty.

The humble Petition of Your Majesty's most dutiful and Loyal Subjects the British Freeholders, Merchants and Traders in the Province of Quebec in behalf of themselves and others.

Sheweth,

That induced by Your Majesty's paternal care for the security of the Liberties and Properties of your Subjects, and encouraged by Your Royal Proclamation of the Seventh of October in the third year of your Reign, "That you had been "graciously pleased to give direction to Your Governors of Your "Majesty's new Governments, that so soon as the state and cir- "cumstances thereof would admit, they should with the advice "of the members of Your Majesty's Council call General Assem- "lies within the said Governments respectively, in such manner "as is used in those Provinces in America under Your Majesty's "immediate government."[2]

Your Petitioners most humbly implore Your Majesty's gracious attention to their supplications, confiding as they do in your Royal goodness, that only to point out in general the present state and circumstances of this Province, is to obtain the Royal Mandate for calling a General Assembly within the same, which operating with Your Majesty's gracious intention for the good and welfare of your People, will strengthen the hands of Government, give encouragement and protection to Agriculture and Commerce, encrease the Publick Revenues, and we trust, will in time under Your Majesty's Royal influence be the happy means of uniting your new subjects in a due conformity and attachment to the British Laws and Constitution and rendering the conquest of this extensive and populous country truly glorious.

That as the great Source of the wealth and riches of a country principally consists in the numbers of its Inhabitants usefully employed, Your Petitioners cannot but lament that the great numbers of your Majesty's new Subjects in this Province for want of such publick encouragement as an Assembly only can properly give to improve its natural advantages, have hitherto proved rather a burthen than any benefit to themselves or advantage to the community; their extreme poverty and misery increasing with their numbers.

[1] Canadian Archives, Q 7, p. 359. The date of the petition is not given, but it would appear to be some time in 1770.

[2] See Proclamation of October 7, 1763, p. 163.

That Your Majesty's British Subjects residing in this Province have set examples and given every encouragement in their power to promote Industry, are the principal Importers of British Manufactures, carry on three fourths of the Trade of this Country, annually return a considerable Revenue into Your Majesty's Exchequer in Great Britain; and though the great advantages this Country is naturally capable of are many and obvious for promoting the Trade and Manufactures of the Mother Country, yet for some time past, both its Landed and Commercial Interests have been declining, and if a General Assembly is not soon order'd by Your Majesty to make and enforce due obedience to Laws for encouraging Agriculture, regulating the Trade, discouraging such Importations from the other Colonies as impoverish the Province, Your Petitioners have the greatest reason to apprehend their own ruin as well as that of the Province in general.

That there is now a sufficient number of Your Majesty's Protestant Subjects residing in and possessed of real property in this Province, and who are otherwise qualified to be Members of a General Assembly.

Your Petitioners therefore most humbly supplicate Your Majesty, That You will be graciously pleased to give direction to Your Governor of this Province to call a General Assembly[1] within the same, to meet at the City of Quebec, in such manner as is used in those Provinces in America under Your Majesty's immediate Government.

And Your Petitioners as in duty bound shall ever pray.

Henry Taylor
Jas. Sinclair
Alex^{r} Henry
George King
Lauch' Smith
Jonas Clarke Minot
Jn. Porteous

James McGill
Geo. Gregory
Alex^{r} Paterson
Lawrence Ermatinger
Rich^{d} Dobie
John Aitkin

Simon Fraser
John Fine
J. Fraser
Murd. Stuart
Aaron Hart
Edw^{d} Harrison
James Stanley Goddard
J^{no} Paterson
Isaac Todd
Alex^{r} Martin

Cha^{s} Grant
John Lees
Zach. Macaulay
John M^{c}Cord
P. Fargues
John Renaud
Abraham Ogier
J^{no} Durss.

[1] See Proclamation of Oct. 7th, 1763, p. 163.

PETITION FOR THE RESTORATION OF FRENCH LAW AND CUSTOM.[1]

Au Roy

Très Gracieux Souverain

Plaise à Votre Majesté.

Vos très humbles & très Soumis Sujets Les Canadians de votre Province de Quebec osent S'addresser a Votre Majesté avec le plus profond Respect et cette ferme Confiance que leur inspirent votre bonté paternelle pour tous vos fidels Sujets en général & Les faveurs dont Votre Majesté a Jusqu'icy prevenue Ses nouveaux Sujets Canadiens qui en conserveront à jamais le Souvenir et La plus parfaite reconnoissance.

Depuis l'Instant, Sire, de L'union de cette Province aux Domaines de Votre Couronne, vos très humbles Sujets ont pris la Liberté de vous réprésenter plusieurs fois. de quelle importance il étoit pour leurs interrêts d'être Jugées et Gouvernées Suivant les Loix, Coutumes, & Ordonnances, Sous Lesquels Ils sont nés, qui servent de Baze et de fondements à Leurs possessions et font La règle de Leurs familles, et combien il leur estoit à la fois desagréable, & humilliant d'être Exclus des places qu'ils pourroient remplir dans cette Province pour le Service de Votre Majesté et le Soulagement de Votre Peuple Canadien, unique Moyen d'exiter L'émulation.

Sans fatiguer Votre Majesté par le détail des meaux que leur a Occasionné La privation de ces avantages, dont elle a été instruite par des représentations précedentes de La part de vos fidels Sujets Canadiens; ils se contenteront de Lui dire que de La maniere differente de procedder quant à la forme, et quant au fond dans les affaires Civiles, et du prix exhorbitant des Sallaires éxigés par Les gens de Loix, S'est en suivie La Ruine d'un nombre considerable de familles. Votre peuple Canadien, Sire, déja Ecrasé par tant d'autres Calamitées, n'avoit pas besoin de ce surcroit d'Infortune.

La Religion, Sire, que nous professons, et dans la profession de Laquelle Il vous a plû nous assurer que nous ne Serions jamais troublées, quoique differente de celle de vos autres Sujets, Seroit-elle un motif (du moins dans Votre Province de Quebec) pour Exclure une si considérable peuplade d'Enfants Soumis & fidels à La participation aux bontés du meilleur des Roys, du plus tendre des peres. Non Sire, Le préjugé ne perça jamais Jusqu'à Votre Thrône ; vous aimés égallement & Sans distinction tous vos fidels sujets, vos Canadiens auront toujours pour Votre auguste personne Le plus parfait amour, La plus grande Soûmis-

[1] Canadian Archives, Q 7, p. 363. The date of this petition is not given, but it was apparently drawn up at the time of Governor Carleton's return to Britain in 1770.

sion ; c'est à ces titres, Sire, qu'ils attendent de Votre Majesté La même bienveillance, La meme protection que vous accordés à tous vos Sujets.

Déja Instruits, Sire, par Le Général Guy Carleton, Gouverneur de Votre Province de vos favorables dispositions à notre Egard, c'est a ce digne représentant de Votre Majestée qui connoit parfaitement L'Etat de cette Colonie, & Les Mœurs des peuples, que nous confions nos tres-humbles Supplications pour Les porter au pied de votre Thrône: Le Rapport, Sire, que vous fera Le Genereux Sage et désinterressé Gouverneur et de nos meaux qu'il a adouci autant qu'il Lui a été possible & de notre Conduite Soûmise & affectionné Envers Le Gouvernement, achevera, nous osons l'esperer Ce que votre Cœur Royal & paternel a déja commencé.

Rendus à nos coutumes et a nos usàges, administrées suivant la forme que nous connoissons, chaque particulier sçaura La force de ses titres & Le moyen de se deffendre, sans être obligé à dépenser plus que La valleur de Son fond, pour Se maintenir dans sa possession.

Devenu Capables de Servir en toute Condition Notre Roy, & notre patrie, nous ne Gemirons plus de cet état d'humiliation qui nous rend pour ainsi dire La vie insupportable, & Semble avoir fait de nous, une Nation réprouvée.

Comblés, Sire, de vos Graces, et de vos faveurs, pénétrés d'amour et de reconnoissance, nous apprendrons à nos Enfants Les bienfaits dont nous sommes redevables à Votre Majestée ; & ils se joindront a nous pour implorer les Bénédictions du Ciel sur votre personne Sacrée, sur votre auguste famille, & pour la prosperité & l'aggrandisement de vos domaines.

Lanaudierre	Beaubien	amiot
Riganville	Boisseau	Lech[a] De Léry
Perrault	Courval	F. J. Cugnet
Perras	Pinié	Nanry Rousseau
Panet	Joseph Duval	Tanguine
Marcoux	Berthelot	f. Laju
P. Oueille	Marchand	Borneau
Lannier	Guichau	Richard Corbin
Guegrand	Louis Turgeon	Branard
Dénéchaud	Jean baptiste dufour	
Soupiran	Ch[s] Voyer	Brimont
Manvide fils	Deschenaux	A. f. Meignot
Saillant	A. Dalciat	Louis Rousseau
M. Linerin	P. foulard	Siard fils
Langlois	Numon	Delezenne

SESSIONAL PAPER No. 18

J[b] duchesnay fils	Dufan	N. Voyez
Louis Lizot	F. Billet	M[l] Bouchand fils
Allexis Jean	Guillemard	L. fremont
Pavant	Le Ct[e] Du Pre	J. Anieux
Th. Pelerin	A. Raby	Charles Pelerin.

Endorsed :—C. 23

(*Translation.*)

To the King

Most Gracious Sovereign

May it please your Majesty

Your most humble and most obedient subjects, The Canadians of your Province of Quebec dare to address themselves to Your Majesty with the deepest respect and with that firm confidence which is inspired in them by your paternal goodness for all your faithful Subjects in general, and by the Favours with which up to the present time Your Majesty has laden his new Canadian Subjects, who will ever preserve the memory of them and the deepest gratitude for them.

From the Moment, Sire, of the union of this Province to the Dominion of your Crown, your most humble servants have taken the Liberty of frequently representing to you, of what importance to their interests it was to be judged and governed according to the Laws Customs and regulations under which they were born, which serve as the Basis and Foundation of their possessions, and are the rule of their families, and how painful and at the same time how humiliating it has been to them to be excluded from the offices which they might fill in this Province, for the Service of Your Majesty, and the Comfort of Your Canadian People,—the only way to excite emulation.

Without wearying Your Majesty with details of the ills which the deprivation of their advantages have occasioned them, concerning which Your Majesty has been informed by previous representations, on the part of your faithful Canadian subjects, they will be content with simply telling you that from the different mode of procedure both as regards form and essence in civil affairs, and from the exorbitant rate of the fees exacted by the Lawyers there has ensued the Ruin of a considerable number of families. Your Canadian people, Sire, who are already overwhelmed by so many other calamities, had no need of this increase of misfortune.

Could the religion we profess, Sire, and in the profession of which it had pleased you to assure us that we shall never be disturbed, though differing from that of your other subjects, be a reason, (at least in Your Province of Quebec) for excluding

so considerable a number of Your submissive and faithful Children from participation in the favours of the best of Kings, of the tenderest of fathers? No Sire, prejudice has never reached Your Throne you love equally and without distinction all your faithful subjects. Your Canadians will always have for your august person the most perfect love, the greatest submission. It is from these claims Sire, that they expect from Your Majesty the same benevolence the same protection which you grant to all your subjects.

Having been already informed, Sire by general Guy Carleton the governor of your Province of Your favourable intentions with regard to us, it is to this worthy representative of Your Majesty, who perfectly comprehends the Condition of this Colony and the customs of the people, that we confide our most humble supplications to be conveyed to the foot of Your Throne. The Report Sire, that the generous, wise and disinterested Governor will make to you, both of our hardships, which he has softened as much as lay in his power, and of our submission and affectionate conduct towards the government will we dare to hope, finish what your Royal and paternal heart has already begun.

Restored to our customs and usages administered according to the forms with which we are familiar every individual will know the extent of his rights & the way to defend himself without being obliged to spend more than the value of his property to maintain himself in his possessions.

Thus rendered able to serve our King and our country in every situation we shall no longer groan under this state of humiliation, which, so to speak, makes life unbearable to us, and seems to have made of us a reprobate nation.

Overwhelmed, Sire, with your gifts and your favours, penetrated with love and gratitude, we will make known to our children the benefits for which we are indebted to your Majesty, and they will join with us in imploring the benedictions of Heaven on your sacred person, on your august family and for the prosperity & increase of your dominions.

ADDITIONAL INSTRUCTIONS TO CARLETON 1771.[1]

George R.

[L.S.]

Additional Instruction to Our Trusty and Wellbeloved Guy Carleton Esquire, Our Captain General & Governor in Chief in and over Our Province of Quebec, in America,

[1] Canadian Archives, M. 230 pp. 114, 115. Carleton was at this time in London, (see note 2 p. 423) and it was apparently in response to his representations in favour of restoring the feudal power of the Crown in Canada that these and other alterations in the colonial system were adopted. See Carleton to Shelburne, p. 288, and Draught of Ordinance, p. 292.

Given at Our Court at S[t] James's the 2[d] Day of July 1771. In the Eleventh Year of Our Reign.

Whereas it hath been represented unto Us, that the Terms and Conditions, under which you are by our Royal Instructions to you, authorized and directed to make Grants of Lands within our Province of Quebec under your Government, have been found to be inconvenient and inadequate ; and that it would be more for our advantage, & for the benefit of Our Subjects inhabiting in, and restoring to our said Province, if the ancient Mode of granting Lands which prevailed under the French Government before the Conquest and Cession of the said Province, was to be adopted ; We therefore taking the same into Our Royal Consideration, and being desirous to promote as far as in Us lies, the Welfare and Prosperity of Our said Province, have thought fit to revoke & do hereby revoke and annul all such parts of our said Instructions to you ; & every Clause, Matter and Thing therein, which contain any Powers or Directions in respect to the granting of Lands within Our said Province ; And it is Our Will and Pleasure & you are hereby authorized and empowered to grant, with the Advice of the Council of Our said Province, the Lands which remain subject to Our disposal, in Fief or Seigneurie, as hath been practised heretofore antecedent to the Conquest thereof ; omitting however in such Grants, so to be made by you, the reservation of the exercise of such judicial Powers, as hath been long disused within Our said Province. And it is Our further Will and Pleasure that all Grants in Fief and Seigneurie, so to be passed by you, as aforesaid, be made subject to Our Royal Ratification, and also be registered within Our said Province, in like manner as was Practised in regard to Grants held in Fief and Seigneurie under the French Government.[1]

G.R.

HILLSBOROUGH TO CRAMAHÉ.[2]

WHITEHALL 3[rd] July 1771

Lieut. Gov[r] CRAMAHÉ

SIR, The King having been graciously pleased to appoint you Lieutenant Governor of the Province of Quebec, your Commission has been

[1] The extent to which these instructions reversed the existing system of land grants and land tenures, may be gathered from a reference to that portion of the previous Instructions to Governor Carleton dealing with land grants. See sections 40-58, pp. 313-319.

[2] In a letter of Carleton to Hillsborough, March 15th, 1769, he requests that he be permitted to return to Britain for a few months, in order to place his views directly before the Government. "By being upon the spot with the King's Servants, I might clear up to them many Points, and remove many Difficulties, which, at this Distance, can neither be so thoroughly discussed, or perfectly understood, as is necessary for the King's Service, whose Interests, in Regard to the Province, I really believe, I could more effectually promote and advance by a Residence of a few Months in London, than of so many years in this Country, and which I am the sooner induced, to propose, that the Government thereof, in my absence, would remain in the Hands of Mr. Cramahé, the eldest Councillor, from whose Sense, Moderation, and Disinterestedness, as well as knowledge of all public Business, concerning it, I am persuaded, the Interests of the Crown could not suffer." Q 6, p. 38. On Dec. 1st, Hillsborough reported that leave of absence had been granted. Carleton left Canada early in August 1770, and on the 9th a Proclamation was issued by Cramahé declaring that the command had temporarily devolved upon him. Carleton's stay in London being prolonged by the development of events in America and the relation of Canada to the situation there, Cramahé was raised to the rank of Lieutenant Governor, in July 1771.

delivered to General Carleton, and I beg you will accept my Congratulations upon this Mark of His Majesty's Attention to, and Approbation of your Merit & Services.

The Affairs of Quebec have, since my last Letter to you, been under the Consideration of the Privy Council, and Orders have been given for such preparatory Steps to be taken, as will I trust lead to the final Settlement of those Arrangements which are so much wished for by His Majesty's faithful Subjects there ; in the mean time His Majesty relies upon your prudence and discretion for such a representation of His gracious Intentions towards them, as shall have the effect to fix them in those Sentiments of Duty and Loyalty which they have so zealously expressed on all Occasions.

I am &c
HILLSBOROUGH.

REPORT OF SOLICITOR GENERAL ALEX. WEDDERBURN.

I have taken the same[2] into consideration, and in the course of my reflections upon the subject, I have found myself led into a discussion of the form of government, and of the religion of the Province, which must necessarily have great influence upon the plan of civil and criminal law proper to be adopted there. I have, therefore, presumed to form some idea upon both those heads as necessarily connected with the more immediate object of reference, and humbly to submit the result of my observations upon so important and so difficult a subject, under the following heads:—

First—The Government of the Province.

Secondly—The Religion of the Inhabitants.

Thirdly—The Civil and Criminal Laws.

Fourthly—The Judicatures necessary to carry those laws into execution.

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[1] By orders of the Court, of June 14th, 1771, and July 31st, 1772, Solicitor General Wedderburn and Attorney General Thurlow were directed "to take into consideration several reports and papers relative to the laws and courts of judicature of Quebec, and to the present defective mode of government in that Province, and to prepare a plan of civil and criminal law, for the said Province, and to make their several reports thereon." The required reports were made, but hitherto it has been impossible to discover the originals among the documents in the Public Record Office, or elsewhere, though copies were apparently brought to Canada. As already observed, (see note 1, p. 377) the greatest secrecy was maintained with reference to all the reports and other important papers relating to Canada, after 1769. Copies of some of these were preserved and printed by their authors, as in the case of the Reports of Maseres and Marriott; others have been found among the papers of the Earl of Dartmouth, Colonial Secretary at the time of the passing of the Quebec Act, and a few of lesser importance have been found among the Haldimand Papers. Though the most essential of these Reports were called for, as means of information when the Quebec bill was before the House of Commons, they were entirely refused by the Ministry. A specific motion for Carleton's Report was brought to a vote and negatived by 85 to 40; another motion for Wedderburn's, Thurlow's and Marriott's Reports was negatived by 85 to 45. (See Cavendish's Debates on the Quebec Bill, pp. 94-95). The only form in which the Reports of Wedderburn and Thurlow have as yet been found, is in the shape of extracts published in "A History of the Late Province of Lower Canada, Parliamentary and Political, By Robert Christie." Wedderburn's Report was dated Dec. 6th, 1772. The extracts here given are copied from Christie's History, Vol. I, p. 27. Alexander Wedderburn was appointed Solicitor General in 1771, and Attorney General in 1778. In 1780 he was made Chief Justice of the Court of Common Pleas and raised to the peerage as Baron Loughborough. He held the office of Lord Chancellor from 1793 to 1801, and on retiring was created Earl of Rosslyn.

[2] The matters referred to him.

Canada is a conquered country. The capitulations secured the temporary enjoyment of certain rights, and the treaty of peace contained no reservation in favor of the inhabitants, except a very vague one as to the exercise of religion. Can it therefore be said that, by right of conquest, the conqueror may impose such laws as he pleases? This proposition has been maintained by some lawyers who have not distinguished between force and right. It is certainly in the power of a conqueror to dispose of those he has subdued, at discretion, and when the captivity of the vanquished was the consequence of victory the proposition might be true ; but in more civilized times, when the object of war is dominion, when subjects and not slaves are the fruits of victory, no other right can be founded on conquest but that of regulating the political and civil government of the country, leaving to the individuals the enjoyment of their property, and of all privileges not inconsistent with the security of the conquest.

The political government of Canada, before the conquest, was very simple; for, whatever appearance of regularity of controul and limitation the Arrêts and Commission present, all power, in fact, resided in the Governor and the Intendant. The Superior Council was generally at their devotion. They had the command of all the troops, of all the revenues, and of all the trade of the country. They had also the power of granting land; and in conjunction with the bishop, they had so superior an interest at the Court of France, that no complaint against their conduct was dangerous to their authority. This was the state of Canada till the treaty of peace. Upon the reduction of the province, a military government took place, and the change was not very sensible to the inhabitants.

After the treaty of peace, a government succeeded which was neither military or civil, and it is not surprising that the Canadians should have often expressed a desire to return to a pure military government, which they had found to be less oppressive. Such a government, however, is not formed for duration, and in a settlement which is to become British, could not be endured beyond the limits of a garrison.

The first consideration, in forming the political constitution of a country is, in what manner the power of making laws shall be exercised. If it were possible to provide every necessary regulation for a distant province, by orders from England, it might, perhaps, be the most eligible measure to reserve that authority entirely to the British legislature. But there must be many local interests of police, of commerce, and of political economy, which require the interposition of a legislative power, acquainted with the affairs, and immediately interested in the prosperity of a colony. In all the British colonies, that legislative power has been entrusted to an Assembly, in analogy to the constitution of the mother country. The most obvious method would then be, to pursue the same idea in Canada ; but the situation of that country is peculiar. The Assembly must either be composed of british subjects, or of british and Canadians.

In the first case, the native Canadian would feel the inequality of his situation, and think (perhaps truly) that he should be exposed to the oppression of his fellow-subjects.

To admit the Canadian to a place in that Assembly (a right, which, from the nature of a conquest he has no absolute title to expect,) would be a dangerous experiment with new subjects, who should be taught to obey as well as to love this country, and, if possible, to cherish their dependence upon it. Besides, it would be an inexhaustible source of dissension and opposition between them, and the British subjects. It would be no less difficult to define the persons who should have a right to elect the Assembly.— To exclude the Canadian subject would be impossible, for an Assembly chosen only by the British inhabitants, could no more be called a representative body of that colony, than a council of state is. To admit every Canadian proprietor of land would be disgusting and injurious to all the men of condition in the Province, who are accustomed to feel a very considerable difference between the seignior and the censier, though both are alike proprietors of land. Nor would it be beneficial to men of inferior rank ; for every mode of raising them to the level of their superiors, except by the efforts of their own industry, is pernicious. It seems, therefore, totally inexpedient at present to form an Assembly in Canada. The power to make laws could not with safety be entrusted to the Governor alone ; it must, therefore, be vested in a Council consisting of a certain number of persons, not totally dependent upon the Governor.

The Chief Justice, the Attorney General, the Judge of the Vice Admiralty, the Collector of the revenue, and the Receiver General, (if these officers were obliged, as they ought, to reside there,) should hold a seat by virtue of their office ; the other members to be nominated by your Majesty, and to be removed only by your royal orders.

As power lodged in a few hands is sometimes liable to be abused, and always subject to suspicion, some controul to this authority is necessary. The *first* is, the establishment of a general system of laws for the colony. The *second* is, that in matters of taxation, in those which affect life, and in those which import an alteration of the established laws, no ordinance of the Council should have effect till it is confirmed in Great Britain. The *third* is, that it should not be in their power at all times to act as a legislative body; but that, their session should be confined to the period of six weeks previous to the opening of the navigation to Britain, and at no other time should they be assembled in that capacity, except upon some urgent occasion.

Under these restraints, it seems reasonable that the power of making laws should be entrusted, for a limited number of years, to this Council, who will be enabled, from their knowledge of local circumstances, to form the necessary detail for executing the plan of laws to be transmitted to them, the regulations for the police of the country, for the administration of justice, for the collection of the revenue, and the improvement of trade and agriculture ; and being bound down by certain rules upon the great

objects of legislation, and subject to the constant inspection of government, they will be sufficiently restrained from abusing the power committed to them.

As the immediate power of taxation is not intrusted to this Council, it is necessary that a revenue should be provided under the authority of an Act of Parliament, for which no better plan can be formed than that which has already been proposed to the Commissioners of your Majesty's Treasury for raising a fund to defray the expenses of government in the Province of Quebec, by a tax upon spirituous liquors.[1]

The religion of Canada is a very important part of its political constitution. The 4th article of the treaty of Paris, grants the liberty of the Catholic religion to the inhabitants of Canada, and provides that His Britannic Majesty should give orders that the catholic subjects may profess the worship of their religion according to the rites of the Romish church, as far as the laws of England will permit. This qualification renders the article of so little effect, from the severity with which (though seldom exerted) the laws of England are armed against the exercise of the Romish religion, that the Canadian must depend more upon the benignity and the wisdom of Your Majesty's government for the protection of his religious rights than upon the provisions of the treaty, and it may be considered as an open question, what degree of indulgence true policy will permit to the catholic subject.

The safety of the state can be the only just motive for imposing any restraint upon men on account of their religious tenets. The principle is just, but it has seldom been justly applied ; for experience demonstrates that the public safety has been often endangered by those restraints, and there is no instance of any state that has been overturned by toleration. True policy dictates then that the inhabitants of Canada should be permitted freely to profess the worship of their religion ; and it follows of course, that the ministers of that worship should be protected and a maintenance secured for them.

Beyond this the people of Canada have no claim in regard to their religion, either upon the justice or the humanity of the crown ; and every part of the temporal establishment of the church in Canada, inconsistent with the sovereignty of the king, or the political government established in the province may justly be abolished.

The exercise of any ecclesiastical jurisdiction under powers derived from the see of Rome, is not only contrary to the positive laws of England, but is contrary to the principles of government, for it is an invasion of the sovereignty of the king, whose supremacy must extend over all his dominions, nor can his Majesty by any act divest himself of it.

The establishment of the Jesuits and of the other religious orders, as corporations holding property and jurisdiction, is also repugnant to the

[1] See Carleton's Report to the Treasury, with proposed duties, &c., Dec. 10th, 1767 · Q 5-1, pp. 300 & 306.

political constitution, which Canada must receive as a part of the British dominions.

The point then, to which all regulations on the head of religion ought to be directed is, to secure the people the exercise of their worship, and to the crown a due controul over the clergy.

The first requires that there should be a declaration that all the subjects in Canada may freely profess their religion without being disturbed in the exercise of the same, or subject to any penalties on account thereof, and also that there should be a proper establishment of parochial clergymen to perform the offices of religion.

The present situation of the clergy in Canada, is very fortunate for establishing the power of the crown over the church. It is stated in the reports from your Majesty's officers in Canada,[1] that very few have a fixed right in their benefices, but that they are generally kept in a state of dependence which they dislike, upon the person who takes upon him to act as bishop, who, to preserve his own authority, only appoints temporary Vicars to officiate in the several benefices.

It would be proper, therefore, to give the parochial clergy a legal right to their benefices. All presentations either belonging to lay pastors or to the crown, and the right in both ought to be immediately exercised with due regard to the inclinations of the parishioners in the appointment of a priest. The governor's license should in every case be the title to the benefice, and the judgment of the temporal courts the only mode of taking it away. This regulation would, in the present moment, attach the parochial clergy to the interests of government, exclude those of foreign priests, who are now preferred to the Canadians, and retain the clergy in a proper dependence on the crown. It is necessary, in order to keep up a succession of priests, that there should be some person appointed whose religious character enables him to confer orders, and also to give dispensations for marriages; but this function should not extend to the exercise of a jurisdiction over the people or the clergy ; and it might be no difficult matter to make up to him for the loss of his authority, by emoluments held at the pleasure of the government.

The maintenance of the clergy of Canada was provided for by the payment of one *thirteenth* part of the fruits of the earth in the name of tythe, and this payment was enforced by the Spiritual Court. It is just that the same provision should continue, and that a remedy for the recovery of it should be given in the temporal courts; but the case may happen that the land-owner is a protestant, and it may be doubted whether it would be fit to oblige him to pay tythes to a catholic priest.

It has been proposed that all tythes should be collected by the Receiver General of the Province, and appropriated as a fund to be distributed by government for the stipends of the clergy, out of which a certain proportion

[1] Referring to the Reports of Carleton Hey and Maseres. See note 1, p. 370.

may be reserved for the support of protestant preachers. This measure, I humbly conceive to be liable to two objections,—*First*—tythe even to the clergy is paid with reluctance, and the government, by undertaking the collection of it, would lose more in the affections of its subjects than it would gain by the additional dependence of the clergy,—*Secondly*—by thus being brought into one fund, the catholic subject will be made to contribute to the support of the protestant clergy, which he may think a grievance.

There is less objection, however, to require the protestant inhabitant to pay his tythe to the receiver general, allowing him, at the same time, to compound for less than the full sum; though I should not deem it expedient to reduce the rate by any positive law.

The increase of that fund will be a proof of the increase of the protestant inhabitants, and it will afford the means of providing for the protestant clergy, whose functions will then become necessary. In the mean time, it may be sufficient to appoint that a protestant clergyman shall be nominated to any parish in which a majority of the inhabitants require it.

In regard to the monastic orders, it will be fit to secularise them entirely, but so great a change ought not to be made at once. It is proper to see how many of them may take benefices, from which they are not excluded by the foregoing provisions.

The Jesuits, however, and the religious houses in France, which have estates in Canada, are upon a different footing from the others. The establishment of the first is not only incompatible with the constitution of an English province, but with every other possible form of civil society. By the rule of their order the jesuits are aliens in every government. Other monastic orders may be tolerated, because, though they are not useful subjects, still they are subjects, and make a part of the community ill employed. The jesuits form no part of the community. They, according to their institution neither allow allegiance nor obedience to the prince, but to a foreign power. They are not owners of their estates, but trustees for purposes dependent upon the pleasure of a foreigner, the general of their order. Three great catholic states have, upon grounds of policy, expelled them. It would be singular, if the first protestant state in Europe should protect an establishment that ere now must have ceased in Canada, had the French government continued.

Uncertain of their tenure in Canada, the jesuits have hitherto remained *very quiet*, but should the establishment be tolerated there, they would soon take the ascendant of all the other priests ; the education of the canadians would be entirely in their hands, and averse as they may be at present to France, it exceeds any measure of credulity to suppose that they would ever become truly and systematically friends to Britain.

It is therefore equally just and expedient in this instance, to assert the sovereignty of the king, and to declare that the lands of the jesuits are vested in his Majesty, allowing, at the same time, to the jesuits now residing in Canada, liberal pensions out of the incomes of their estates.

The information to be collected from the papers transmitted with the reference, is not particular enough to be the ground of an immediate law as to the property claimed by religious societies in France. The principle is clear, that every trust for their use, is void and devolves to the crown. But in applying that principle, the circumstances of each case must be considered, and, in general, it seems expedient to confirm all the titles of persons occupying lands under their grants ; to make the terms of payment to the crown easier than to the former proprietors, and to apply the produce for the purposes of educating the youth of Canada, which deserves particular attention. But this subject is more fit for gradual regulations, pursuant to the instructions that may be given to your Majesty's governor, than to form an article in a general plan of laws to be immediately carried into execution.

The convents in Canada do not fall under the same rule as the monasteries. They are not much connected with the political constitution. They may, for a time, be necessary for the convenience and honor of families —perhaps it may be expedient always to retain some such communities there, for the honorable retreat of unmarried women. Certainly it would be inexpedient and cruel to dissolve them by any immediate law. No such change is essential to the political constitution, and whenever it becomes so, the remedy is easy, and the subjects will then receive it as a favor from the crown.

The political and religious constitution of the province of Quebec being established, the next matter of inquiry is, what plan of civil and criminal law is best adapted to the circumstances of the province? and this is not altogether an open question ; for, Canada is not in the condition of a new settled country, where the invention of a legislator may exercise itself in forming systems. It has been long inhabited by men attached to their own customs, which are become a part of their nature. It has, of late, acquired some inhabitants superior in power, but much inferior in number, to its ancient inhabitants, equally attached to different usages. The prejudices of neither of these classes of men can be entirely disregarded ; in policy, however, more attention is due to the native Canadian than the British emigrant, not only because that class is the most numerous ; but because it is not the interest of Britain that many of her natives should settle there. The Canadian also has a claim in justice to the enjoyment of as much of his ancient laws regarding private rights, as is not inconsistent with the principles of the new government ; for, as his property is secured to him, the laws which define, create, and modify it, must also be retained, otherwise his property is reduced to the mere possession of what he can personally enjoy.

* * * * * * * It should also be provided that any Canadian subject of the age of twenty five, who is unmarried and without children, holding land immediately of the crown, may convert his tenure into a soccage holding, by which he shall have the power of devising the whole,

and that the purchaser of land held of the king, may convert the tenure into soccage at his pleasure, and it shall then be held and enjoyed as by the law of England.

* * * * * * * The criminal law of England, superior as it is to all others, is not, however, without imperfections ; nor is it, in the whole extent of its provisions, adapted to the situation of Canada. It would be improper to transfer to that country all the statutes creating new offences on temporary or local circumstances.

* * * * It is recommended by the governor, the chief justice, and the attorney general, in their report, to extend the provisions of the Habeas Corpus act to Canada. The inhabitants will, of course, be intitled to the benefit of the writ of Habeas Corpus at common law, but it may be proper to be better assured of their fidelity and attachment, before the provisions of the statute are extended to that country.

The form of civil government for the province, as it now consists in the distribution of judicial authority, is the most difficult and the most important part of the plan, for, without an easy and exact execution, laws are of very little use to society.

The several opinions reported to your Majesty, by the governor, the chief justice and the attorney general, concur in the causes of the complaints upon this head, and differ little in the remedies proposed.

It is their opinion that the expense and delay of proceeding are at present very grievous, and they seem to think that the division of the province into three districts, and the establishment of courts of justice in each, as in the time of the French government, would afford some remedy to this evil.

To diminish the expense of law suits, too great already for the property of the country, by adding to the number of persons who are to be maintained by the law, is at least a doubtful proposition.

It is necessary, therefore, to consider whether other causes besides the want of proper judicatures, may have concurred to produce the grievance of which the Canadians complain, and whether other expedients, besides an increase of places and expense, may not, in part, remove it. The uncertainty of the law of the province must have been one principal cause of the expense of suits. That evil will, in time, be removed.

The change of property, together with the alteration of the course of commerce consequential upon the conquest, producing new contracts in new forms, created a great deal of business for which there would be no established fees, and the ignorant execution of that business opened a new source of litigation. The same thing has happened in the other settlements, where, for a certain time, the gains of those who took upon themselves to act as lawyers, and of course the expense to the other inhabitants, of law proceedings, has been very great. But this evil is also temporary. Without disputing the reality of the grievance, one may suppose that it is a little exaggerated, for all the French lawyers who remained in Canada,

were interested to magnify it. They partook of the profits arising from its continuance, and their profits were increased by exciting the complaints.

I cannot conceive that this grievance would be removed by adopting the French judicature, for if one can trust the accounts given by themselves, the expense and the delay of law suits, are in France a most intolerable evil.

* * * * * * The Canadians, it is said, complain, and not without reason, of the arrest and imprisonment in civil cases. There could be no objection to confine that severe proceeding to the cases in which they are accustomed to it. These are stated to be actions upon bills of exchange, debts of a commercial nature, and other liquidated demands, by which probably is to be understood actions upon bond and other instruments, where the sum demanded is certain. In other cases, the arrest upon mesne process, which is only used to compel appearance or answer, may be abolished, and in lieu of it the plaintiff might be allowed, after due summons, to enter an appearance for the defendant, and if more was required than a mere appearance, the constitution of the court is very well calculated to adopt the process of sequestration, which has already prevailed under the French government.

The execution against the person of the debtor, after judgment, may also be laid aside, and, indeed, in an increasing colony it is very impolitic, and a very cruel proceeding. An effectual and speedy process against the goods and estate would, in most cases, answer the ends of justice much better.

* * * * * * As the affairs of the colony require a very particular attention, and some regard must there be had to political considerations, it might be proper to attribute the cognizance of all questions concerning the rights of the clergy, the profits of benefices, and the presentation to them, to the council, with an appeal to England; and all the most material questions of police might, perhaps, be also subjected to their jurisdiction.

N° 1

ABSTRACT of such of the Regulations proposed in M^r^ Solicitor Genl^s^ Report as it may be expedient to establish by Act of Parliament—Inclosed in M^r^ Sol. Genl^s^ Report of 6^th^ Dec^r^ 1772.[1]

That it shall and may be lawful for the Governor or Commander in Chief of the Province of Quebec, by and with the advice & Consent of such Persons as shall be appointed from time to time by His Majesty &c. to be a Council for assisting the said Governor in the Administration of the Province, not exceeding Twenty, nor less than Twelve, to make and ordain

[1] Canadian Archives, Dartmouth Papers, M 383. p. 240. These two papers give the chief features of Solicitor General Wedderburn's Report, in the shape of clauses of a bill, and may be compared with the Report of the Lords Commissioners for Trade and Plantations relative to the State of the Province of Quebec, p. 377, as also with the Quebec Act and the various draughts of bills for the settlement of the Government of Quebec which precede it.

Ordinances for the public Peace, Welfare and good Government of the said Province in all Cases whatsoever.

Provided always, that no such Ordinance shall be made when less than a Majority of the said Councillors shall be present, nor at any Meeting of the Council, except those which shall be specially called for that purpose between the——day of——and the——day of——unless upon some extraordinary and urgent Occasion, in which case every Member of the Council resident at Quebec or within——Miles of the same shall be personally summoned by the Governor to attend the same.

Provided also that no Ordinance by which the Life or Limb of the Subject may be affected, or by which any Duties or Taxes shall be imposed, or by which the Laws of England hereby declared and enacted to be of Force and Validity in the said Province, or the Customs used in Canada, by this Act directed to be observed, may be altered or varied shall be of any Force or Effect until approved by His Majesty and such approbation signified by His Majesty in Council.

That Copies of all Ordinances, so to be framed and ordained, shall, within——months from the passing thereof (or sooner if Opportunity offers) be transmitted duly authenticated under the Seal of the Province by the Governor or Commander in Chief to the Commissioners for Trade and Plantations, and that the said Ordinances be laid by the said Commissioners for Trade and Plantations, before both Houses of Parliament as soon as may be after the same shall have been received by them from the said Province.

That it shall and may be lawful for all His Majesty's Subjects of the Province of Quebec freely to profess their Religion in the said Province, without being subject to any Penalties or Prosecutions for the Exercise of the same, provided that they attempt nothing by Deed or Writing to the Prejudice of His Majesty's Supremacy in all matters Causes and Things ecclesiastical and civil.

That it shall and may be lawful to and for any Person or Persons who shall be licensed by the Governor of the Province to ordain Priests or Deacons, and also to grant Licenses for Marriages as has been formerly used, but not to exercise any other ecclesiastical Jurisdiction or Authority.

That all Crimes and Misdemeanors, commited in the Province of Quebec shall be tried and determined according to the Laws of England.

Provided always that no Person shall suffer the Pains of Death upon Conviction for any Theft, or felonious taking without Force, where the Value of the thing taken shall be less than five Pounds, nor for any Felony where the Benefit of the Clergy hath been taken away from the Offender by any Statute enacted since the 23^{d} year of the Reign of King Charles the Second.

Provided also that in lieu of the Judgement to be given upon any Conviction for Felony, where the Offender is entitled to the benefit of

Clergy, the Offender shall only be fined or imprisoned, or bound to his good Behaviour.

Provided also that no Judgment upon any criminal Charge shall, after the Verdict given, be arrested upon any Objection of Informality in the Indictment or of any Discontinuance in the Record.

That the Laws & Usages touching the Tenure, Descent & Alienation of Land or real Property, and the Distribution of the Goods of such of His Majesty's Canadian Subjects as shall die intestate, which were in force on the 13th of Septr 1759, shall be observed and maintained in all Questions that shall arise concerning the same in any of the Courts of Justice in the Province of Quebec, except in such cases as are hereafter declared.

Provided always that nothing in this Clause contained shall be construed to extend to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs & Successors, to be holden in free & common Soccage : Provided also that it shall and may be lawful to and for any of His Majesty's Subjects at his age of 25 years to change the Tenure of an Estate held of His Majesty &c into free & common Soccage by any Deed executed in the Presence of two Witnesses and presented to the Chief Justice of the Province who shall summon a Jury to assess the Sum to be paid to His Majesty in lieu of the Profits of the Seigniory, and upon payment thereof shall direct the Deed to be enrolled, and the same being enrolled the Land shall from thenceforth be held as Lands in free & common Soccage are by the Laws of England.

That all Wills & Testaments executed according to the Forms used in the Province of Quebec before the 15th of Septr 1759, shall be deemed equally valid & effectual as a Will executed by the Testator in the Presence of three Witnesses, pursuant to the Statute of Frauds and Perjuries.

That in all Marriages heretofore contracted by and between any of His Majesty's Subjects of the Province of Quebec; the Rights of the Husband and Wife and of the Issue, in respect of their personal Property shall be adjudged according to the Laws and Usages which obtained there before the 15th day of Septr 1759 ; But that in all Marriages celebrated after the——day of——where there are no Articles of Settlement the Parties shall be deemed in respect to their personal Property to have contracted under the Law of England.

N°. 2

ABSTRACT of such of the Regulations as the provincial Legislature of Quebec may carry into Execution.

Inclosed in Mr Sol. Genls Report of the 6th Decr 1772.

That in all Benefices which now are or hereafter shall become vacant the Patronage whereof belongs to any of His Majesty's Subjects of Canada, the Patron shall nominate the Ecclesiastic to His Majesty's Governor, who shall issue a Licence to the Person so nominated, and where there is no

Lay Patron, or where no Person shall be nominated within Six Months, the Governor shall nominate and licence some Person, being a Priest born in Canada or the British Dominions, or resident in Canada for the space of five years.

That every Priest so licensed as aforesaid shall hold his Benefice with all the usual Emoluments and Dues thereto belonging during his natural Life, unless he shall be licensed to another Benefice, or upon Complaint made by any Proprietor of Land in the Parish to His Majesty's Governor & Council ; and that in such Suits for the Recovery of his Dues the Production of the Licence shall be sufficient to prove him the Incumbent. Provided always that no Inhabitant or Occupier of any Estate professing the Protestant Religion and having taken the Oaths of Supremacy and subscribed the Declaration against Popery, shall be obliged to Pay Tithes or other Dues to any Popish Incumbent of any Living; But that every such Inhabitant or Occupier of Land shall be obliged to register his Name in a Book to be kept for that purpose by the Clerk of the Council, and that it shall and may be lawful for the Receiver General of the Province to ask, sue for, & recover, by Action or Bill, the Tithes of the Protestant Inhabitants or Occupiers of Land to be applied for the Maintenance of Protestant Divines, in such manner & Proportions, as His Majesty's Governor, with the Advice of the Council, shall appoint.

That all Seigniories, Lands and Estates, which, on the fifteenth day of September, One thousand seven hundred and fifty-nine, belonged to certain Persons assuming to themselves & commonly called the Society of Jesus, shall be vested in His Majesty His Heirs and Successors freed & discharged from all Gifts, Grants, Leases and other alienations made thereof, or of any part thereof, since the said fifteenth day of September, one thousand, seven hundred and fifty nine, but charged & chargeable with the Payment of the Sum of Forty Pounds to every Person of the said Society resident in the Province of Quebec upon the said fifteenth day of September, one thousand seven hundred and fifty nine, or who has since been resident there for the Space of five Years, for and during his natural Life. In Lieu of the Homage done by the Tenant to the Lord of whom the Land is holden, every Tenant, when and as often as the said Homage should have been done, shall deliver to the Lord at the Manor-Place a Declaration in writing, expressing the Tenure of the Land, and the Title of the Tenant, whether by Purchase or Descent, to which Act the Lord shall, within two Days, declare his Assent in writing upon the same Instrument, and the same shall then be entered in a Register to be appointed for that purpose at the Chief Town of the District.

That no Sale of Land *bona fide* made shall, after the Purchase Money paid for the same, be rescinded by the Lord of whom the Fee is holden, or by the nearest Relation of the Lineage of the Vender claiming a Right of Pre-emption therein by virtue of any former Custom.

That the Governor or Commander in Chief shall issue a Commission or Commissions under the Seal of the Province to any three Persons, being

Subjects of His Majesty, to hear & determine in a summary manner all Causes not exceeding the Sum of Thirty Pounds, taking to their assistance a Person chosen by themselves of the Profession of the Law, licensed by the Governor, and also one other Person nominated by the Attorney General, which Person shall act as their Clerk, but neither of the said Persons shall have any Vote.

Provided always, that where the Sentence shall amount to more than the Sum of Twelve Pounds, the whole Proceeding and the Evidence which shall have been given, shall at the desire of either Party, be transmitted to the Chief Justice of the Province within the Space of fourteen days from the Judgement, who shall within fourteen days return the same to the Clerk of the said Commission with his Affirmance, Reversal, or Variation thereof, and the same shall be executed as if the Sentence had been originally pronounced by the Commissioners. That these Commissioners shall be Conservators of the Peace, and have Power to punish all Misdemeanors upon a summary Complaint by Fine and Imprisonment, not exceeding twenty four Livres and three Months. That it shall be lawful for any one of them to commit for a Breach of the Peace for forty eight Hours ; but the Person so committed shall not be longer detained, unless it shall seem proper to two of the Commissioners to detain him for a longer Space ; and in that Case the Cause of the Commitment with the Information shall be immediately transmitted to the Chief Justice.

That the Superior Court of the Province shall be held at Quebec on the first day and shall meet and adjourn itself from time to time, and shall consist of the Chief Justice and two other Judges, who shall have full Power and Authority to determine all Matters & Things in which any real or personal Right, or the quiet Enjoyment thereof is demanded ; by any Action real personal possessory or mixt, and also by any Bill in Equity according to the Laws of England, the Customs of Canada, and the general Principles of Justice and Equity ; And that their Judgments shall be final in all Cases, where the Value of the Thing in question does not exceed three hundred Pounds ; and, in all cases of superior Value, the Party aggrieved by the Sentence may, upon Payment of the Sum decreed (Security being given to the Satisfaction of the Court by the Party receiving it to refund the same in Case of a Reversal of the Judgment) be at Liberty to appeal to His Majesty in Council, which appeal shall be allowed.

That the Chief Justice of the Province shall hold four Sessions for the Trial of all criminal Offences in every Year : two at Quebec, one at Montreal, and one at Trois Rivieres. But in case of any reasonable Excuse approved by the Governor, it shall be lawful for him to appoint the Attorney General, or any other Person, with the Approbation of the Governor, to hold the Sessions in his Place, who shall be appointed by a Special Commission issued under the Seal of the Province a Copy of which with the Cause of issuing the same shall, as soon as conveniently may, be transmitted by the Governor to the Commissioners for Trade and Plantations.

That in case of any Offence committed, by which the Peace and good Government of the Province may be effected, it shall be lawful for the Attorney General to apply to the Council for an Order to remove the Offender to be tried at Quebec, or to apply for a Special Commission for the Trial of the Offence in the Place where it has been committed.

REPORT OF ATTORNEY GENERAL, EDWD. THURLOW.[1]

Canada had been holden by the French king, in the form of a province, upwards of two hundred years; and considerably peopled near one hundred and fifty years, by the establishment of a trading company, with great privileges and extensive jurisdictions, seconded by the zeal of the age, to propagate the gospel in foreign parts.—Parishes, convents of men and women, seminaries, and even a bishoprick were established there. The supreme power, however, remained with the king, and was exercised by his governor and lieutenant-general with the assistance of a council. About one hundred years ago, Louis the fourteenth resumed the country, and gave it the constitution which was found at the conquest.

He gave them a body of laws, namely, those of the Prêvoté, and Vicompté de Paris. The sovereign power remained with the king. But because the immense distance made it impossible to provide them with local regulations so speedily as the occasion might demand, he gave them a council, with authority to order the expenditure of public money, trade with the savages, and all the affairs of police, to appoint courts and judges at Quebec, Trois Rivières and Montreal, and to be judges themselves in the last resort.

This council consisted of the governor, representing the king's person; and the bishop and five notable inhabitants, named by the two first. To this establishment in a few years were added two more councillors, all seven named by the king ; and an intendant of justice, police and revenue, who held the third place in council, and acted as president, collecting voices, &c., and who had, by a separate commission, very large power, particularly in police, wherein he could, if he thought fit, make laws without the council ; and in the ordering of the revenue, in which he was absolute ; and judge without appeal, of all causes relative to it, as he was, indeed, in all criminal cases.

* * * * * Office, rank and authority were annexed to land, and otherwise divided among the gentry, with due degrees of subordination; so that all orders of men habitually and perfectly knew their respective places, and were contented and happy in them. The gentry, in particular,

[1] Attorney General Thurlow's Report was dated Jan. 22nd, 1773. The extracts from it here given are derived from Christie's History of Lower Canada, vol. I, p. 46. (See note 1, p. 424.) Edward Thurlow was appointed Solicitor General in March, 1770, and Attorney General in June, 1771. In June, 1778, he was appointed Lord Chancellor, a position which he held, except for a short interval in 1783, until 1792. On his resignation he was created Lord Thurlow of Thurlow, in Suffolk.

were drawn into a still closer attachment to the governments of their posts, in the provincial and royal troops which were kept up there.

This system, a very respectable and judicious officer, your Majesty's chief justice of Quebec,[1] justly extols, as being admirably calculated to preserve internal tranquility and due reverence and obedience to government, and endeared to the natives by long usage, and perfect conformity to their manners, habits and sentiments.

The natives, at the conquest, were one hundred and twenty thousand, whereof about one hundred and twenty-six were noble. And their laws were, such part of the laws of Paris, as had been found necessary and applicable to their situation, reformed, supplied, changed and enlarged by the king's ordinances and those of the provincial legislature. These have been very judiciously collected, and are among the papers which your Majesty commanded me to consider.[2]

On the eighth of September, 1760, the country capitulated in terms which gave to your Majesty all that which belonged to the French king; and preserved all their property, real and personal, in the fullest extent, not only to private individuals, but to the corporation of the West India company, and to the missionaries, priests, canons, convents, &c., with liberty to dispose of it by sale if they should want to leave the country. The free exercise of their religion by the laity, and of their function by their clergy, was also reserved.[3]

The whole of these terms were stipulated on the 10th of February 1763, in the definitive treaty of peace.[4] By your Majesty's proclamation[5] of the 7th October, in the third year of your reign, (1763) your Majesty was pleased to declare that four new governments were erected, of which Quebec was one, containing a large portion of that country which had been included in the French government of Canada, some parts of which were settled in such manner as hath been mentioned before, but great districts of which still remained rude and barbarous.

And considering that it would greatly contribute to the speedy settling of the new governments, that your Majesty's loving subjects should be informed of your paternal care of the security of the liberty and properties of those who are or shall become inhabitants thereof, your Majesty thought fit to declare that your Majesty had, in the constitution of these governments, given express power and direction to the governors of the said colonies respectively, that so soon as the state and circumstances of the said colonies would admit thereof, they shall, with the advice and consent of your Majesty's council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and

[1] Evidently referring to the Report of Chief Justice Hey, which was one of the documents submitted for consideration but which cannot now be found. See note 1, p. 370.
[2] See note 3, p. 300.
[3] See Articles of Capitulation of Montreal, p. 7.
[4] See Treaty of Paris, 1763, p. 97; especially article 4, p. 99.
[5] See Proclamation of 1763, p. 163.

directed in those colonies and provinces in America, which are under your Majesty's immediate government. And that your Majesty had given power to the said governors, with the consent of your Majesty's said council and the representatives of the people, so to be summoned as aforesaid, to make, constitute and ordain laws, statutes and ordinances for the public peace, welfare, and good government of your Majesty's said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies ; and that in the mean time, and until such assemblies can be called as aforesaid, all persons inhabiting in or resorting to your Majesty's said colonies, might confide in your royal protection for the enjoyment of the benefit of the laws of England, for which purpose your Majesty declared that your Majesty had given power under the great seal to the governors of your Majesty's said colonies respectively for the erection of courts of judicature and public justice within the said colonies, for the hearing and determining all causes, as well criminal as civil, according to law and equity, and as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal under the usual limitations and restrictions, to your Majesty in your privy council.[1]

* * * * On the 21st of November 1763, your Majesty appointed Mr. Murray, to be governor of Quebec, commanding him to execute that office according to his commission, and instructions[2] accompanying it, and such other instructions as he should receive under your Majesty's signet and sign manual, or by your Majesty's order in council, and according to laws made with the advice and consent of the council and assembly.

* * * * * He is further authorised, with the consent of the council, as soon as the situation and circumstances of the province will admit of it, to call general assemblies of the freeholders and planters, in such manner as in his discretion he should think fit, or according to such other further instructions as he should receive under your Majesty's signet or sign manual, or by your Majesty's order in council. The persons duly elected by the major part of the freeholders of the respective parishes and places, before their sitting, are to take the oaths of allegiance, and supremacy, and the declaration against transubstantiation.

The said governor, council and assembly are to make laws for the public peace, welfare and good government of the said province, and for the benefit of your Majesty, not repugnant, but as near as may be to the laws of Great Britain, such laws to be transmitted in three months to your Majesty, for disallowance or approbation, and if disapproved, to cease thenceforward.

The governor is to have a negative voice, and the power of adjourning, proroguing and dissolving all general assemblies.

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[1] From Proclamation of 1763, p. 163.
[2] See Governor Murray's Commission, p. 173; and Instructions, p. 181.

* * * * * * * Some criminal laws must be put into immediate and constant execution, to preserve the peace of the country. The English were so. They act most strikingly upon the minds of the people, and must be administered without any equitable qualifications. These are said to be universally received. In truth, they could neither be refused nor avoided.

* * * Three very different opinions have been entertained. There are those who think that the law of England, in all its branches, is actually established, and in force in Quebec. They argue that your Majesty, upon the conquest, has undoubted authority to establish whatever laws should seem fittest in your royal wisdom : that your Majesty's proclamation dated the seventh day of October, 1763, was a repeal of the existing laws, and an establishment of the English laws in their place, in all parts of the new subjected countries : that the several commissions to hear and determine by the laws of England, were an actual and authoritative execution of those laws; and that the law, as it prevails in the province of New York and the other colonies, took its commencement in the same way, and now stands on the same authority.

If your Majesty should be pleased to adopt this opinion, it seems to afford a full answer to the whole reference, by exhibiting not only a general plan, but a perfect system of civil and criminal justice, as perfect as that which prevails in the rest of your Majesty's dominions, or at least it leads off to questions widely different, touching the expediency of a general change in the established laws of a colony, and touching the authority by which it ought to be made.

Others are of opinion that the canadian laws remain unrepealed. They argue that according to the notion of the english law, upon the conquest of a civilized country, the laws remain in force till the conqueror shall have expressly ordained the contrary. They understand the right acquired by conquest, to be merely the right of empire, but not to extend beyond that, to the liberty and property of individuals, from which they draw this consequence, that no change ought to be made in the former laws beyond what shall be fairly thought necessary to establish and secure the sovereignty of the conqueror. This idea they think confirmed by the practice of nations, and the most approved opinions. "*Cum enim omne imperium victis eripitur relinqui illis possunt, circa res privates, et publicas minores suæ leges, suique mores, et magistratus hujus indulgentiæ pars est, avitæ religionis usum victis, nisi persuasis non eripere.*" Grot. 3. 15. 10.; and if this general title to such moderation could be doubted, they look upon it to be a necessary consequence of the capitulation and treaty alluded to before, by which a large grant was made them of their property and personal liberty, which seem to draw after them the laws by which they were created, defined and protected, and which contain all the idea they have of either. This moderated right of war, flowing from the law of nations and treaties, they think may have some influence upon the interpretation of the public acts above mentioned.

SESSIONAL PAPER No. 18

Though the proclamation of 7th October, 1763, is conceived in very large terms, generally enough to comprehend the settled countries together with the unsettled, yet the purview of it seems to apply chiefly if not altogether to the unsettled, where the laws of England obtain a course till otherwise ordered ; for it seems to assume and proceed upon it, as manifest that the laws of England are already in force, which could not be true of any settled country reduced by conquest. It also recites for its object that it will greatly contribute to the *speedy settling* our said new government ; and at any rate, they think it too harsh a conclusion to be admitted that such an instrument in the state thereof, not addressed to the Canadians, nor solemnly published among them, nor taking any notice of their laws, much less repealing them, should be holden to abrogate all their former customs and institutions, and establish the english laws in every extent and to every purpose, as it may be thought to do in unsettled countries, which conclusion, however, they know not how to avoid, but by confining it to those countries where no settled form of justice existed before.

If it be true that the laws of England were not introduced into Canada by this proclamation, they consider the several commissions above mentioned, to hear and determine according to those laws, to be of as little effect as a commission to New York to hear and determine according to the laws of Canada.

* * * * * * Others, again, have thought that the effect of the above mentioned proclamation, and the acts which followed upon it, was to introduce the criminal laws of England, and to confirm the civil law of Canada. In this number were two persons of great authority and esteem ; —Mr. Yorke and Mr. De Grey, then Attorney and Solicitor General, as I collect from their report of the 14th April, 1766.[1] One great source, they represent, of the disorder supposed to prevail in Canada, was the claim taken at the construction put upon your Majesty's proclamation of 1763, as if it were your Majesty's intention, by your Majesty's judges and officers of that country at once to abolish all the usages and customs of Canada, with the rough hand of a conqueror, rather than in the true spirit of a lawful sovereign, and not so much to extend the protection and benefit of your Majesty's english laws to your new subjects, by securing their lives, liberties and properties, with more certainty than in former times, as to impose new, unnecessary and arbitrary rules, especially in the titles to lands, and in the modes of descent, alienation and settlement, which tend to confound and subvert rights instead of supporting them.

There is not, they observe, a maxim of the common law more certain, than that a conquered people retain their ancient customs till the conqueror shall declare new laws. To change at once, the laws and manners of a settled country, must be attended with hardships and violence. And, therefore, wise conquerors having provided for the security of their domin-

[1] See Report of Yorke and de Grey, p. 251.

ions proceed gently, and indulge their conquered subjects in all local customs which are in their nature indifferent, and which have been received as rules of property or have obtained the force of laws. It is the more material that this policy should be pursued in Canada, because it is a great and ancient colony, long settled and much cultivated by french subjects who now inhabit it, to the number of eighty or one hundred thousand.

* * * * * * In criminal cases, whether they be capital offences or misdemeanors, it is highly fitting so far as may be, that the laws of England should be adopted, in the description and quality of the offence itself ; in the manner of proceeding to charge the party, to bail or detain him, to arraign, try, convict, or condemn him. The certainty and lenity of the English administration of justice, and the benefits of this constitution, will be more peculiarly and essentially felt by his Majesty's canadian subjects, in matters of crown law which touch the life, liberty and property of the subjects, than in the conformity of your Majesty's courts to the english rules in matters of tenure, or the succession and alienation of real and personal estate. This certainty and this leniency are the benefits intended by your Majesty's royal proclamation, so far as concerns judicature. These are irrevocably granted and ought to be secured to your Majesty's canadian subjects according to your royal word.

I have rather presumed to trouble your Majesty with a copy of their expressions than any abstract of their opinion ; because, though I subscribe absolutely to the truth and good sense of their positions, I freely confess myself at a loss to comprehend the distinction whereby they find the criminal law of England introduced, and the civil laws of Canada continued, by instruments which seem to establish all the laws of England, both civil and criminal at the same time, in the same sentence, and by the same form of words, if they are understood to establish any, or to relate to Quebec.

They seem to proceed much upon the supposed superiority which they justly impute to the criminal laws of England. It is very unfit that I should speak of them to your Majesty without the utmost reverence. But I can conceive that a Canadian, blinded, perhaps, by the prejudices of different habits, may think of them in a different manner, and even set but small value on that excellent institution the trial by jury ; whereby the natural equality among men is so admirably preserved, and the lowest subjects of the state admitted to more than an equal share of the supreme judicial authority. I have been actually informed that a canadian gentleman would think himself degraded, and more hardly used by being submitted for life or limb to the judgment of his tradesmen, than if he were put to the question and tortured by the king's authority.

If the difficulties were liquidated and the way more open, I humbly submit to your Majesty, that some other points should be previously settled, before the forms of mere civil and criminal justice can be legally conceived. What form of civil government is fittest to be adopted in that

country is doubtless a question of policy and state ; notwithstanding which, it seems no less manifest, that any given form of civil government will take effect and influence in a thousand ways, upon any scheme to be designated, of civil and criminal justice.

Religion also, so far as it affects the state and becomes an object of establishment or toleration, seems to be a matter of policy and state ; and yet it is sufficiently obvious what a multitude of laws must follow upon any given establishment or toleration, more or less according to the degrees in which the religion is incorporated with the state.

What public revenue is to be established in a new province is, perhaps, a question merely political; but when decided, it generally draws after it a system of laws peculiar to itself and an appropriated tribunal. The same observation holds, in a certain degree, of the police of a country.

Being totally uninformed of your Majesty's royal pleasure touching these important articles, I feel it extremely difficult to state any certain scheme of civil and criminal laws, or any which must not receive deep and material alterations for that which your Majesty shall be pleased to determine on those heads.

There are, at the same time, certain principles which seem, in my humble opinion, to claim your Majesty's gracious attention, as the basis of any new laws to be made in Quebec.

The Canadians seem to have been strictly entitled by the *jus gentium* to their property, as they possessed it upon the capitulation and treaty of peace, together with all its qualities and incidents, by tenure or otherwise, and also to their personal liberty; for both which they were to expect your Majesty's gracious protection.

It seems a necessary consequence that all those laws by which that property was created, defined, and secured must be continued to them. To introduce any other, as Mr. Yorke, and Mr. De Grey emphatically expressed it, tend to confound and subvert rights instead of supporting them.

When certain forms of civil justice have long been established, people have had frequent occasions to feel themselves and observe in others the actual coercion of the law in matters of debt and other engagements and dealings, and also in the recompense for all sorts of wrongs. The force of these examples goes still further and stamps an impression on the current opinion of men and puts an actual check on their dealings ; and those who never heard of the examples of the laws which produced them, yet acquire a kind of traditional knowledge of the legal effects and consequences of their transactions, sufficient and withal absolutely necessary for the common affairs of private life. It is easy to imagine what infinite disturbance it would create to introduce new and unknown measures of justice; doubt and uncertainty in the transaction ; disappointment and loss in consequence.

The same kind of observation applies with still greater force against a change of the criminal law, in proportion as the examples are more striking,

and the consequences more important. The general consternation which must follow upon the circumstance of being suddenly subjected to a new system of criminal law, cannot soon be appeased by the looseness or mildness of the code.

From these observations, I draw it as a consequence that new subjects, acquired by conquest, have a right to expect from the benignity and justice of their conqueror the continuance of all these old laws, and they seem to have no less reason to expect it from his wisdom. It must, I think, be the interest of the conqueror to leave his new subjects in the utmost degree of private tranquillity and personal security; and, in the fullest persuasion of their reality, without introducing needless occasion of complaint and displeasure, and disrespect for their own sovereign. He seems, also, to provide better for the public peace and order, by leaving them in the habit of obedience to their accustomed laws than by undertaking the harsher task of compelling a new obedience to laws unheard of before. And if the old system happens to be more perfect than any thing which invention can hope to substitute on the sudden, the scale sinks quite down in its favor.

It should be remembered that the scheme of government and laws for Canada, was conceived by a wise court in a cool moment, untainted with private passion or public prejudice. The principles of humanity and the views of state combined to suggest that plan which might serve to build a flourishing colony upon. The plan was improved, from time to time, by the wisdom and experience of succeeding times, and not left to become obsolete and unfit for the progressive state of the province.

Although the foregoing observations should be thought just, as a general idea, yet circumstances may be supposed, under which it would admit some exceptions and qualifications. The conqueror succeeded to the *sovereignty* in a title at least as full and strong, as the conquered can set up to their private rights and ancient usages. Hence would follow every change in the form of government which the conqueror should think *essentially necessary* to establish his sovereign authority and assure the obedience of his subjects. This might possibly produce some alteration in the laws, especially those which relate to crimes against the state, religion, revenue and other articles of police, and in the form of magistracy. But it would also follow, that such a change should not be made without some such actual and cogent necessity, which real wisdom could not overlook or neglect;—not that ideal necessity which ingenious speculation may always create by possible supposition, remote inference and forced argument—not the necessity of assimilating a conquered country in the article of laws and government to the metropolitan state, or to the older provinces which other accidents attached to the empire, for the sake of creating a harmony and uniformity in the several parts of the empire ; unattainable, and, as I think, useless if it could be attained:—not the necessity of stripping from a lawyer's argument all resort to the learned decisions of the Parliament of Paris, for fear of keeping up the historical idea of the origin of their laws:—

not the necessity of gratifying the unprincipled and impracticable expectations of those few among your Majesty's subjects who may accidentally resort thither, and expect to find all the different laws of all the different places from which they come, nor according to my simple judgment, any species of necessity, which I have heard urged for abolishing the laws and government of Canada.

The foregoing thoughts are humbly submitted to your Majesty, as general and abstract propositions, liable to be much altered in the application, by what your Majesty may think fit to resolve upon the matters of policy and state which have appeared to me in some degree previous considerations to any plan for the administration of civil and criminal justice, and upon which I have not presumed to offer any opinion. All which is humbly submitted to your Majesty's royal wisdom.

PLAN OF A CODE OF LAWS FOR THE PROVINCE OF QUEBEC; REPORTED BY THE ADVOCATE-GENERAL, JAMES MARRIOTT, LONDON, MDCCLXXIV.[1]

To the King's Most Excellent Majesty.

May it please your Majesty,

Whereas your Majesty was pleased, by your order in council of the 14th of June, 1771, to direct *that several reports and papers relative to the laws and courts of judicature of Quebec, and the present defective mode of government in that province, should be referred to your Majesty's advocate, attorney, and solicitor-general to consider the same; to take to our assistance other persons, as we shall think fit, for the purpose of giving informations, and to prepare a general plan of civil and criminal law for the said province.*[2] and by a farther order, dated 31st July, 1772, reciting the former order, your Majesty was pleased to direct, *that the advocate, attorney, and solicitor-general should make a separate report thereupon to your Majesty in council, with all convenient speed.* In most humble and dutiful obedience to your Majesty's commands, I have the honour to report, that I have perused and considered attentively the papers referred, and have obtained several very useful informations.

It is with the utmost diffidence I now venture to lay before your Majesty in council the result of the reflections which have arisen in my mind upon this subject : perplexed as it is, and so very extensive, both in its

[1] The Report of Advocate General James Marriott, though not found among the State Papers, was published in 1774, under the title here given. The latter part of the report, pp. 129-246, is chiefly concerned with religious questions, which are only of incidental significance for the constitutional history of the Province, and is therefore omitted. The foot-notes designated by the signs*, †, ‡, &c., are contained in the report; those added by the editor are designated by numerals as usual. As may be gathered from the report, Marriott, had little sympathy with the policy which eventually dominated the Quebec Act and his examination before the House of Commons during the debate on that bill is an interesting bit of legal fence to avoid revealing his opinions of the measure. See "Cavendish's Debates on the Quebec Bill", pp. 163-169 and 172-176. James (afterwards Sir James) Marriott was Advocate General from 1764 to 1778, when he was appointed Judge of the High Court of Admiralty, a position which he held till 1798.

[2] See note 1, p. 424.

matter and in its consequences, to your Majesty, and your government, it would be full of danger to lay down any opinions (not only of what the law is, at large, but what the law ought to be ; which is the great question referred) too positively, in relation to a country so remote from home, and to a people, their laws, and customs, with which your Majesty's subjects here are so little acquainted ; I cannot, therefore, offer these thoughts otherwise than merely problematically, and as in deliberation, with submission to superior wisdom ; and I shall readily accede to any better reasonings which may be set forth in any other report of the law servants of your Majesty, and in which we might unite.

It is observable, that the several reports hitherto made and referred to us, do not agree in opinion ; but so far as they do not oppose each other in matter of fact, so far we may venture to try to frame some sort of opinion on the ground of those facts which are laid before us.

Notwithstanding that there ever has been, among men of reflection, a great variety of sentiments upon the subject of general legislation, and that such subjects require the life of a Plato or a Montesquieu to discuss, and the experience of ages to confirm them, it seems to be nearly certain, upon the ordinary experience of mankind (an observation very necessary and applicable to the progressive state of Canada) that wants make manners, and that manners make laws, interpret and controul them in every age and in every government : on the other hand, that laws, in a certain degree, can change the manners of a people, is not to be doubted; because their manners alter with the increase and circulation of property, on which the laws have a visible influence: that in a state of society, where the numbers are few, the wants simple, and the property free from the intricacies of commerce, the laws of that society also are few and simple. The government of a people in such a state represents the government of a private family. It is therefore impossible to form a general code of civil and criminal law for any people, without its being subject to change in the progress of civil society ; nor can it be effective without its being adapted to the immediate wants of the people, and not inconsistent with the tone of their manners : but it is clearly the interest of the governing power, for its own preservation, to watch every change of circumstances, to follow expediencies as they arise, and to model its laws according to the position of the subject, and the views of that leading policy which is the wisdom of states, and the spirit of legislation.

Father Charlevoix,* in speaking of the administration of justice in Canada, in 1663, bewails *the time when arbitrations were no longer decisive, dictated by good sense and the laws of nature; that it was a singular reflection, and humbling for mankind, that the precautions which a wise and great prince thought proper to take to banish fraud, and establish justice, by a new code for the colony, were the encrease of the one and the weakening of the other.* The truth is, the colony was changed, and the laws followed.

*Lib. viii, p. 360, 371.

SESSIONAL PAPER No. 18

In forming the preliminary propositions, in deliberation, to serve as a basis of a code of laws for the province of Canada, it must be taken for granted, as a first and clear position, that the great and sudden change of the political and relative circumstances of the country of Canada makes a farther change of its laws absolutely necessary. It is not an *ideal necessity* which I mean, not the hope of *attaining* any *perfection which* may *exist in speculation* only, but it is a necessity in fact. The laws and people of Canada are already changed ; nor can a previous question† be supposed of the political expediency. After the representations of the board of trade in the strongest terms, the reports of the governor, chief justice, attorney-general[1] of the province, and correspondence with the secretary of state, annexed in the papers referred ; and after your Majesty's order in council hath declared the necessity of a new system, by setting forth, that *the present mode of government in the province is defective, and commanding your Majesty's law servants to prepare a general code of law for the same, and to call upon all persons we may think fit for information* ; such an ample reference precludes all brevity and reserve, and lays your Majesty's law servants, in my conception, under an indispensible obligation, however painful, to enter into every possible consideration upon a large scale, and *to bring the whole subject in one prospect before your Majesty*, that your Majesty, in your great wisdom, may weigh upon the most extensive informations the grounds of some probable system. This latitude is the more necessary, because, if hasty and ill digested regulations should be adopted, upon any mistaken notions of men and things, the evils already felt by your Majesty's government will increase beyond the power of a remedy.

The relative position of the colony in its actual and possible views, being well considered, and all facts being well stated and established, the reasonings will easily follow.

To know what Canada wants, it is very proper to consider the relation in which it once stood to France, and the relation in which it now stands with respect to Great Britain. This colony was settled with views of policy and commerce, by a mission of Jesuits only, upon pretence of religion, and supported in opposition to the early claims of the British crown, as it was natural to a military government, upon military principles. On a view of the civil establishment of this colony in its infancy and progress, which appears from a perusal of the French commissions‡, nothing can be more simple, or formed with greater latitude than the general and indefinite powers granted to the French officers, to whom it was entrusted. The whole government, in its original state seems to have been left to the influence which military force** has over the bodies, and, which a system of

[1] See note 1, 370. For Report of Attorney General, see p. 370

†Report of the attorney-general.

‡Vide Creation du conseil, souverain de Québec, 1663.

**Histoire philosophique et politique des etablissemens et du commerce des Européens dans les deux Indes, tom. vi, p. 142.

Tous les colons y devoient sans exception une obeissance aveugle à une autorité purement militaire.

religion, dazzling in its ceremonies, and operating forcibly on the imagination, has naturally over the minds of men,* whose employments and wants leave little time for reflection. The common law or custom of Paris was to be their rule, by the edict of Lewis XIV. To this general system have been added a number of royal edicts, regulations of the superior council, ordinances of intendants, &c. which form the law peculiar to the province***; and although it appears upon the authority of Canadian lawyers, that many parts of the law of the custom of Paris have not at any time been executed in the colony; yet the state of the colony has been the only reason of it ; and that no cases have yet arisen as objects of those parts of the law of the custom of Paris which have not been executed.

In the condition described, the colony of Canada at the peace of Versailles[1]¶, was ceded to the crown of Great Britain, absolutely, with no restriction but such as regarded the preservation of private property, or had a view to certain modes of religious worship, or rituals, in case they were permitted by the laws of the country, which now became sovereign. One hundred thousand subjects *in this ample manner* (to use the words of the treaty) transferred from one sort of government to another, totally different in manners, languages, laws, and religion, must necessarily suffer a violent alteration.

It is very observable, that in the XLIId article of the capitulation for Montreal and Canada,[2] the demand was, *that the Canadians shall be governed according to the custom of Paris, and the laws and usages established for that country.* This is neither granted nor refused, but *reserved.* The answer is, *"they become your Majesty's subjects."* The consequence is, their laws are liable to be changed. But until the system of laws of the ancient inhabitants should be repealed by the authority of the new sovereign power, their old system was understood by many to be in full force upon them. This is laid down, as *a most certain maxim of the common law*, by Mr. Yorke and Mr. De Grey, in their report[3] ; by which I suppose they meant the law of nations. That doctrine is laid down *as the common law* by Lord Coke, in Calvin's case. But the common law of England has nothing to do with the question; it is a matter of the jus gentium, and it depends upon the silence and presumed indulgence of a new sovereign power, as well as upon any acts whereby the sovereign's pleasure is made publicly known. There is no occasion to cite passages of Grotius§, or Puffendorff, or any other German or Dutch writers, to shew their opinion of what *is possible for the sovereign power to permit by not abrogating.*

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*Ibid, p. 157. La necessité rendit soldats tous les Canadiens.

***La coutûme de Paris modifiée par des combinaisons locales forma le code de ses loix Ibid. 146.

¶Article IV. Sa M. tres chrêtienne cede et transporte le tout au dit roi, et à la couronne de la Grande Bretagne, et cela de la manière et dans la forme la plus ample, sans restriction.

[1] See the Treaty of Paris, 1763, p. 97.

[2] See Articles of Capitulation of Montreal, p. 7.

[3] See Report of Yorke and de Grey, p. 251.

§Report of the attorney-general.

SESSIONAL PAPER No. 18

But much more difficulty occurred (and it was increased by the steps taken by the British government) upon the question, *whether the laws, civil and criminal, of the ancient inhabitants, became binding upon the persons and properties of British subjects who came over to settle in Canada after the conquest?* who have been thought to carry out with them, as it has been expressed by somebody, all the laws of England upon their backs ; and who, in a more particular manner, claimed the benefit of your Majesty's proclamation, so far as it was understood to be binding, as declarative of the general laws of England, and of your Majesty's right in consequence, with advice of your Majesty's privy-council, to make laws for any conquered country ceded to the crown, exercised by your Majesty in this instance, in the same analogy as in royal grants or charters, heretofore of any unsettled lands and territories belonging to the crown, acquired by occupancy of the subject ; the conditions of which grants have been the result of the royal pleasure, having regard to the fundamental laws of England.

The fact appears to be, that a proclamation has been issued by your Majesty, with the advice of your privy-council, so long ago as the 7th of October 1763[1] ; setting forth, that *in the interim, until a provincial assembly could be called, all persons inhabiting the said colony may confide in your Majesty's royal protection for the enjoyment of the benefit of the laws of the realm of England ; and for that purpose your Majesty had given power to the governors of the said colony, to erect, with the advice of their councils, courts of judicature and public justice.*

As the commission* of the governor of Quebec[2], is almost in every article a direct copy of the commission of the governor of New York in 1754, and of the commissions of the governors of the rest of your Majesty's colonies, modelled doubtless upon those granted upon their first settlement ; so it should seem as if this proclamation had been copied inadvertently, and in the hurry of office, from some former proclamation relative to Nova Scotia, or some other *unsettled* British colony, inviting persons to emigrate thither from their mother-country ; and that the reflection never entered the thoughts of the drawers up of this proclamation, that Canada was a conquered province, full of inhabitants, and already in the possession of a legal establishment.[3] In consequence of this proclamation and commission, courts of judicature were set up, and the judges were directed to follow the laws and customs of England.[4]

In a report† made April 1766, by the then attorney and solicitor-general, Mr. Yorke and Mr. De Grey,[5] it was laboured, that this pro-

[1] See Proclamation of Oct. 7th, 1763, p. 163.
*Vide printed Collection, p. 93, 102, 239, 250.
[2] See Commission of Governor Murray, p. 173.
[3] That this is a mistaken supposition with reference to the conditions which led up to the Proclamation of 1763, will be evident from a consideration of the "Papers Relating to the Establishment of Civil Government in the Territories ceded to Britain by the Treaty of 1763." See pp. 127-163.
[4] Referring to the Ordinance of Sept. 17th, 1764; see p. 205.
†Vide Inclosure, p. 166.
[5] See Report of Yorke and de Grey, p. 251.

clamation was only meant *to be introductive of select parts of the laws of England, and not of the whole body of laws ; and that the criminal laws of England, and of personal wrongs, were almost the only laws that came under the description of the words* enjoyment of the benefit of the laws of England ; *and that the laws of England relative to descent, alienation, settlement, and incumbrances of lands, and the distribution of personal property in cases of intestacy, and all the beneficial incidents to real estate, in possession or expectancy, were not comprehended under the proclamation.*

The proclamation issued upon the 7th of October 1763. The commission of the governor was subsequent to the proclamation ; the bill not being signed by the attorney-general for the commission by letters patent till 22d of October ; and on the 14th November 1763, the privy-council made an order for interlineations of some necessary words.[1] Indeed I am disposed to think, that the proclamation, singly considered, and of itself, *without other acts of government which followed it,* did not introduce absolutely the law of England, in the whole of its system, by general words ; because it might possibly bear some sort of distinction, as taken above, between cases civil and criminal : and it might also bear the distinction of new, and the old subjects, who were the emigrants from home ; the former, as governable by their own ancient usage ; the latter, as bearing the privileges of Englishmen upon their backs. It might be said, the proclamation was meant for the new settlers, and for the new grantees, and related to *the yet unoccupied lands* of the province, and extended no farther.

But these distinctions were under a farther difficulty from other acts of government : the actual establishment of the courts of justice, of the king's bench, and common-pleas, with commissions and titles similar to those of the judges and courts of Westminster Hall, and with express instructions to follow the English laws and customs, did of necessity, and ipso facto, introduce all the modes of judicial proceeding according to the laws of England ; although with this modification, *so far as they could be put in practice under such circumstances* ; and did also strongly tend to introduce gradually the whole system of English laws, and did occasion a strong presumption in the minds of all men, that it was then actually introduced, or meant to be introduced as soon as possible.

The two ordinances of the 17th of September 1764,[2] and of 6th of November 1764[3], transmitted home to the king in council, *and never disallowed,* are very strong in favour of this idea, although the first contains some saving clauses, viz. *that the judges in the court of common-pleas are to determine agreeably to equity, having regard nevertheless to the laws of England, as far as the circumstances and present situation of things will admit, until such time as proper ordinances for the information of the people can be established by the governor and council, agreeable to the laws of England. That*

[1] See pp. 172.
[2] See p. 205.
[3] See p. 229.

tenures in respect to grants prior to the cession by treaty, and the rights of inheritance as practised before that period, shall remain the same till the 10th of August 1765, unless altered by some declared and positive law, with a salvo of his majesty's rights. The consequence after the expiration of this date is obvious, that the rights of inheritance and tenures would be changed to the laws of England, so far as this ordinance and declaration could legally change them.

With respect to the chief justice, as a judge of appeal, the difficulty put upon him by his commission,[1] to decide by the laws of England, was very great ; and it could only be avoided by his considering himself as a judge in the second instance, to examine the decisions of the inferior court, by the same rules as they formed their judgments ; agreeably to the latitude expressed. It is to be observed, that the chief justice of the king's bench has no authority in his commission to act as a judge of appeal, but he derives it only from the ordinance of the governor, of the 17th September 1764. It is observable, *that the governor is limited to the instructions annexed to his commission, and to such as shall be hereafter given him under your Majesty's signet and sign manual, or by order of council, and conformable to such reasonable laws and statutes as shall be made and agreed upon by him, with the advice and consent of the said council and assembly.*

The form of French government (say the lords commissioners of trade, in their report to the committee of council, July 10th, 1769*),[2] *though not entirely abolished by those royal declarations, was thus in many parts materially altered, and made to correspond with that form of government which has been established in your Majesty's other American dominions. The restrictions in the commission arising from the test act of the 25th Charles IId, prevented the measure of an assembly being executed in a colony where all the principal old inhabitants were of the Romish religion. Many constitutional services were unprovided for in the commission and instructions ; and what is worst of all, it has since been found necessary that several ordinances, in matters of local regulations, and internal economy, made by the governor and council, should be disallowed by your Majesty; upon this consideration* (as the board of trade state it), *that they were made without a due authority to enact them.*

The effect which the taking of this ground of a want of due authority, must have upon the opinion of the inhabitants, and their respect for government, and the question of legality, with respect to every other ordinance of the same sort, is but too obvious. A grand jury in Quebec,[3] with more zeal in the object, than judgment in pursuing the means, present the incapacitation of the Romish religion ; to prevent jurors of that religion being impanelled in cases of life and death ; and to controul the measures taken advocates think proper, sometimes in the French, and sometimes in the

[1] See Commission of Chief Justice Hey, p. 273.

* Vide Inclosure, p. 9.

[2] See Report from the Lords Commissioners for Trade & Plantations relative to the State of the Province of Quebec, p. 377. The portion here quoted will be found on p. 380, last paragraph.

[3] See "Presentments of the Grand Jury of Quebec," p. 212.

by the governor, general Murray, in consequence of the legislative powers lodged together in a military person and his council, and which produced the dissatisfactory ordinance of 17th September 1763; great part of which has been repealed by another ordinance,[1] as well as many other local regulations which have been disallowed by your Majesty in council.

The confusion which existed under these circumstances does exist to this moment. But the whole confusion results not only from the new legal arrangements, but it seems to be originally existing as the natural effects of a conquest.—The confusion is complained of more easily than it can be remedied. Every new mode is considered as a hardship by the old inhabitants, and so might they equally complain of the conquest. Their minds naturally revert to their ancient usages, and *their wishes return to their ancient government*. It is no reproach to them ; they must feel as men : and to men every political change which brings an uncertainty of rights, and of the mode of pursuing them, is of necessity painful.

It is stated, that in the courts of common-pleas, the proceedings are drawn up in any form or style that the parties think proper ; in French or in English, as the attorneys happen to be Canadian or English born subjects ; and commonly in the French language, as the practisers are chiefly Canadians; that the old inhabitants distribute effects of persons deceased in case of intestacy, viz. the share of widow and children, and divide their lands, according to their former French law ; that the new English settlers follow the English rules of the statute law in cases of distribution ; that the old inhabitants contract, convey, and mortgage their landed property, according to their old mode of conveyancing, notwithstanding the ordinance of the 17th September 1764, which makes the French laws, regarding lands, expire after a limited period ; that the new English settlers use the English mode, and the same estates have sometimes passed through the two different modes of transfer. It is to be conceived in the latter case, that no great harm can arise if they are but conveyed bona fide. But as the English shall intermarry more and more with the Canadians, some difficulties may arise as to the distribution of the effects of intestates, and the manner of dividing immoveable inheritances, and taking by descent in right of primogeniture, because the laws of France and England differ exceedingly in these particulars ; and the English blood may claim the protection of the laws of England against the laws of France. But this difficulty may possibly be obviated by the method hereafter proposed.

It is stated by Mr. attorney-general Mazeres, that in the civil proceedings carried on in the new superior court of king's bench, the forms of all actions, the style of the proceedings, the method of trial, the rules of taking evidence, are such as are prescribed by the English law, and are universally known by the Canadians to be so. In the courts of common-pleas, there is much more of the face and language of the French law, for the pleadings are drawn up in any form and style which the parties or their

[1] See Ordinance of July 1st, 1766, p. 249.

English language, as the attornies who prepare them happen to be Canadians or Englishmen ; but they are most frequently in the French language, the business of these courts of common-pleas being chiefly managed by the Canadian procurators or attornies. Justices of peace are not very respectable in the eyes of the Canadians ; sheriffs and bailiffs are also officers very unlike to the military conservators of the peace, and to the executive powers to which the Canadians have been accustomed. The arrest of body in the first instance in civil suits was held at first by the Canadians to be an unnecessary hardship and restraint, and to be inconsistent with their notions of honour, and disgraceful to the person arrested ; the event of the suit in his favour was not thought a sufficient reparation for the insult ; but the French notions of honour have, it seems, now given way to convenience, and the inhabitants are said to be very ready at using arrests against each other. On the other hand, so much indulgence to the persons of creditors, as is allowed by the English laws of bankruptcy, is thought by many of the British merchants and others to be ill adapted to promote and preserve credit in the tender state of the commerce of the province ; and that it is an encouragement of frauds there, (as no doubt it is in England). On the contrary, the English laws of bankruptcy are well received by many of the ancient Canadians, as being agreeable to the spirit of the French laws in cases of *deconfiture* or insolvency. It is agreed on all hands, in criminal proceedings, *that the Canadians do as well as English universally understand the criminal laws of England to be in full force ; that no other are ever mentioned or thought of ; and that the Canadians seem to be very well satisfied with them.*[1]

This representation of Mr. attorney-general Mazeres is confirmed by the appendix to the report of the 15th September 1769, made by the governor and chief justice. It is very full on this head : *that in all criminal cases, whether capital offences or misdemeanors, the laws of England have already been adopted, both in the description and quality of the offence, and in the manner of proceeding, to charge, commit, arraign, try, convict, and condemn the offender. And the certainty and lenity of those laws, and the benefits of this part of the English constitution, are generally known to the Canadians, and high in their estimation.*

But whatever the criminal law of England is in the great lines of treason, felony, &c. I conceive it must of course have taken place in the colony of Canada ; and that no other system of criminal laws could exist there at any instant of time after the conquest: because this part of distributive and executive justice is so inherent in dominion, or, in other words, so attached to every crown, and is so much an immediate emanation of every government, that the very instant a people fall under the protection and dominion of any other state, the criminal, or what is called the crown law of that state, must ipso facto and immediately operate : it

[1] See Maseres' Report, more particularly pp. 344-346.

cannot be otherwise ; for were it otherwise there would be no effective sovereignty on one side, and no dependence on the other. The dominant power can exercise and execute no laws but those which it knows, and in its own name, and with which its servants are conversant : and the subjects can obey none but such as arise out of the new relation in which they stand. The French Canadian lawyers have in general, as I have heard from good authority, the same ideas upon this subject of the criminal law.

With respect to the civil laws, there may be a distinction ; because a conquered people may be understood to be governed by their ancient laws touching their civil property, so long as they remain unchanged by any declaration to the contrary of the new sovereign power; the silence of which may be construed to be a tacit confirmation. And these civil laws may be binding upon such British subjects who adopt them, *by going to* them of their own free will, and by acquiring property under them ; as if they went to Jersey, Guernsey, Minorca, Scotland, or elsewhere in your Majesty's dominions. But with respect to the criminal laws, I cannot conceive that any native subjects of your Majesty can be tried for life or limb, in any of your Majesty's dominions, by any other laws than the laws of England, either in matter or manner ; or suffer the punishments annexed to such crimes by the laws of France, such as the torture to exact confession upon circumstantial evidence, the breaking upon the wheel, the forms of trial by written evidence, personal interrogatories, monitories for voluntary witnesses to appear against the prisoners, and the like. Till there is an absolute surrender, military law must prevail in every country and supersede the common law ; but the moment the new sovereign is in peaceable possession, the merum imperium, or power of the sword, or the haute-justice, as the French civilians call it, to be exercised according to common law, takes place ; and this power must extend to all crimes that concern the *peace and dignity of the crown*. These are mala in se, crimes in themselves, and universally known in every nation. Those crimes which arise from prohibitions are not known, and therefore they are not governed by penal statutes antecedent to the conquest. The mixtum imperium, of personal wrongs and civil property, must be promulged before the ancient laws are understood to be altered.

In these views, your Majesty's proclamation, declarative of the enjoyment of the laws of England, seems to have been justifiable, and to be rightly understood in regard to all your Majesty's subjects in Canada, without distinction of the places of their birth, so far as it relates to the criminal crown law in the greater crimes, such as treason and felony ; because there the proclamation was meant to convey an actual benefit to the Canadians, by putting an end to both the military as well as the French criminal law.

With respect to a general assembly, if it had been called agreeably to the proclamation, which recites the discretionary power given to the governor by his commission to call one (*as soon as the circumstances of the colony will permit, as in the other British colonies*), this measure would have

served to have pointed out the spirit and dispositions of the people : but the fact is, an assembly, though summoned and chose for all the parishes but Quebec,[1] by governor Murray, has never sat. And it is now agreed, by governor Carlton, the chief justice, and Mr. attorney-general Mazeres himself, (who had formed a plan of an assembly or legislative council, as a succedaneum instead of an assembly) that the measure of calling an assembly in the present circumstances is by no means necessary ; that it would be premature, and attended with many great public inconveniencies; as the people in Canada are in general extremely illiterate, and not yet ripe for so great and sudden a share of liberty and legislative power. Monsieur Lotbiniere* says, that he doubts whether there are more than four or five persons in a parish, in general, who can read. It is apprehended, therefore, that the calling an assembly would not have remedied or regulated all the causes of complaint, or might even have created new ones. But *that it may be the source of factions which have been much experienced in the other colonies*, I think is no good general objection, because all assemblies of men naturally fall into disagreements : it is the necessary result of opposite interests, or ideas. Different perceptions make men appear like different animals one towards another.

I conceive that no laws *in the detail* can be well formed for any country but by a legislative body upon the spot; because such a body best knows its own wants, and how to find the means, and how to apply them. The colonies of Georgia and Nova Scotia were long drooping under a military government. The extraordinary improvements of them, from the moment they have been permitted to make laws for themselves, is a conclusive argument of the necessity of some legislative powers to be given to a body representative of the whole colony, with limitations : but it is by no means intended to speak decisively for or against the measure of calling an assembly: it may be extremely proper to establish some legislative body, with a reasonable degree of independency, after the outlines of legislation shall have been first drawn by your Majesty, either in your privy council, or in your great council in parliament ; an assembly of *some sort* may then be useful to carry into execution the details, and to build on the foundations, which shall have been laid out by a superior policy. A legislative and elective council might possibly be the most useful with a *power of negative in the governor*, provided that the laws, which are to be passed in such council, should be only provisional, although they should happen to pass without the governor interposing his negative voice ; but not to operate till they have had your Majesty's express confirmation, and even afterwards to be always subject to revocation at your Majesty's pleasure. And I am the more inclined to a legislative council, because it seems to be consistent with reasons of policy, to preserve the great difference which already subsists between the people

[1] Marriott must have been either mistaken or misinformed on this point, as there is no evidence of an assembly having been elected or called under Murray.

* Article iv.

of this country and the rest of your Majesty's colonies : yet, at the same time, it is necessary to make the Canadians forget that they were Frenchmen, and to approximate them more as British Canadians, to a British government by a systeme mitoyen, or middle system, so as to effect, what the chief justice calls, *the happy temperament of new and old laws*, to reconcile the engagements of the crown with respect to both sorts of subjects, and to answer the views of political government ; not in that sort of absolute uniformity of laws, or religion, which exists no where but among the small savage tribes of men, and which is not found even in the most despotic states ; because a perfect uniformity cannot exist without extirpation of the subjects, which in the end must weaken or destroy the sovereign power itself.

The great lines of union of Canada to the realm of Great Britain is drawn at present by virtue of the conquest. The assimilation to the government of the latter, in its tribunals, is actually effected ; an assimilation of manners will follow slowly ; but it must necessarily follow as a natural consequence of the conquest. The military spirit of the inhabitants, carried to an excess in the late war, has begun to cease : it is very important for England that it should cease. The cultivation of lands, and attention to commerce (unknown before) are encreasing every day. The back settlements extend themselves ; and the inhabitants of New York and Canada are approaching nearer to each other : some French families who disliked the English proceedings, and many of the first English settlers at Quebec, who were several of them, upon speculation, adventurers from England, Scotland, and Ireland, or factors for considerable merchants in London and elsewhere, have retired from the colony ; not finding that the advantages of the opening of trade there answered the sanguine expectations of the earliest comers, who overstocked it, or who found a military government in too great a degree of vigour, for the advantage and security of commerce ; and their place is daily supplied by another sort of men, such as English officers of the army and navy, and actual merchants. A great* iron foundry has been established[1]; warehouses are built; one house for distilling only has cost five thousand pounds ; and such great purchases of landed property have been made of the native Canadians by Englishmen, that some of the principal seigniories at this day are in the actual possession of the latter. There are about two or three thousand British born settlers

*Histoire philosophique, tom. 6, p. 152. Une veine plus sûre encore s'offroit à l'industrie. C'étoit l'exploitation des mines de fer si communes dans ces contrées. La seule qui ait jamais fixé l'attention des Européens est près des Trois-Rivières. On l'a découverte à la superficie de la terre. Il n'en est nulle part de plus abondantes, & les meileures de l'Espagne ne sont pas si douces. Un maître de forge, arrivé d'Europe en 1739, augmenta, perfectionna les travaux de cette mine jusqu'alors foibles & mal dirigés. La colonie ne connut plus d'autre fer: on en exporta même quelques essais; mais la France ne voulut pas voir que ce fer étoit le plus propre à la fabrique de ses armes à feu, le seul qu'il lui fut même avantageux d'employer. Une politique si sage s'accordoit merveilleusement avec le dessein qu'on avoit pris, après bien d'incertitude de former un établissement de Marine en Canada.

[1] Referring to the St. Maurice Forges, near Three Rivers, which had been established in 1733. It will be observed that Marriott makes frequent reference to the recently issued work of Abbé Raynal, "Histoire philosophique et politique des établissements et du commerce des Européens dans les deux Indes." Paris 1770.

besides the troops. Every year, with the accession of commerce, in the nature of things, must encrease their numbers and consequence, if the laws are well fixed and administered, and a military government, if possible, is avoided or controuled. For notwithstanding the natural indolence and ignorance of the people and their present poverty, notwithstanding the circumstances of the pretended difficulties attending the navigation of the river Saint Laurence, at all times, from its rocks and shoals, magnified by the inexperience* or policy of the French, and the long time it is frozen, for full six months†: yet when we consider the prodigious encrease of population, the exceeding fertility of Montreal, the healthiness of the air, and the vast woods of Canada, capable of supplying naval stores and lumber for the West Indies and for the mother-country. The produce of horned cattle, sheep, horses, hogs, wool, corn, hemp, flax, furs, pot-ash, iron, &c, and the situation of the river St. Laurence, so adapted for the fishery,‡ and encrease of seamen, objects little pursued by the French government, totally taken up with military operations, it is reasonable to think that all these circumstances will, in course of time, conspire to make Quebec the Petersburgh§ of North America.

It appears from very good authority, that the imports from Great Britain in one year, into this colony, have amounted to two hundred and forty thousand pounds sterling, exclusive of the imports from Scotland, Ireland, the West India islands, and the other American colonies ; and this too, soon after the conquest ; when the complaints and confusion of a military government were at their highest pitch ; a magistrate and merchant, who brought ten thousands into the province, mutilated by the soldiery ; and who burnt their barracks in defiance of an act of parliament, by which they were erected for the relief of the people ; and notwithstanding many other embarrassments arising to trade, from the condition of a people, among whom the laws were administered in a summary way, and by persons without legal ideas.

From all the facts stated as above, upon the evidence of informations, of too high authority to be doubted, follow two consequences ; that after certain new regulations have been submitted to with patience by his Majesty's new Canadian subjects, for a space of thirteen years, though with some such complaining as is natural upon a change of masters, the foundation which has been laid for an approximation to the manners and government of the new sovereign country must either continue to be built upon, or otherwise the whole that has been done must be thrown down, and the

*The tide runs up as far as Trois-Rivieres: and frigates of war have gone up as high as Montreal, to the great astonishment of the French, who considered the river above Quebec as only navigable by oared vessels.

†The time it is quite free is stated by general Carleton to be in May.

‡Pêcherie du loup marine, p. 144, ibid. La pêche de la baleine pouvoit donner une singuliere activité aux colons, & former un nouvel essaim des navigateurs. Le plan de pêcher de la morue sur les deux rives du fleuve S. Laurent, p. 155, ibid.

§Ibid, p. 152, 153. L'extraction de bois des chênes d'une hauteur prodigieuse, & des pins rouges de toutes les grandeurs, est facile par le fleuve S. Laurent. & les innombrables rivieres qu'il reçoit. Ce pays avec quelques soins & du travail pouvoit fournir la France entiere des voiles, des cordages, du bray, du gaudron.

Canadians *must be restored in integrum* to all their ancient laws and usages ; a manner of proceeding as inconsistent with the progressive state of human affairs, as with the policy of any possible civil government, which cannot revert, but must necessarily take up things, and go on the state of existing circumstances at the time it intervenes ; for it can as little stand still at an given point, as it can decide that the flood of times shall go no further. As men move forward, the laws must move with them, and every constitution of government upon earth, like the shores of the sea from the agitation of the element, is daily losing or gaining something on one side or the other.

From all which propositions there seem to follow plainly these political consequences ; that after your Majesty's proclamation, commissions, and instructions, and the establishments of courts of justice, and several ordinances which have been issued by virtue of that proclamation, it would lessen, not only in the minds of the Canadians, but of all Europe, the ideas of the dignity, wisdom, and authority, of your Majesty's government, to undo every thing that has been done : that to restore the colony to its military principles and spirit, would be in consequence to restore it to France.

The views of the French cabinet are evident, by the accounts transmitted by governor Carleton of the Canadian born officers who served in the last war, who are in a particular manner cantoned in Touraine*, and supported by the French government, with an increase of pay and all arrears.[1]

With respect to a military system, nothing can more effectually suppress a rising spirit of commerce, which alone can make the acquisition of Canada of any utility to Great Britain. Commerce grows only to perfection in an open soil, and in an air that is free; it will scarce bear to be regulated : it is like the sensitive plant ; if touched, it shrinks ; but if pressed, it perishes. I chuse rather to speak in this figurative manner, than to enter into detail of the consequences and instances of military powers, exercised in this colony at a certain period. It never can be the interest of any government, however despotic, to oppress commerce ; it would be like the wild Indian, who cuts down the tree, to gather the fruit.

Hitherto the province† of Canada has been an establishment only expensive and burthensome to the French government. The fur trade was but a small object of attention, in proportion to the political views. The great use of the colony was offensively : as a place of arms, to form the head of a chain of forts, and to harass the British colonies, and, by its position and communication with the lakes quite down to the Mississippi, to command the commerce and force of the whole interior of the vast American

*Vide Col. Carlton's letter to the Earl of Shelburn. Dated Nov. 25, 1767. Inclosure, Appendix, No. 1, p. 67, 68.

†Histoire Philosophique, ibid. p. 143. Tous les objets ne produisoient au fix en 1747, qu'un revenue de deux cens soixante mille deux cens livres.

Ibid. p 149. Les despenses annuelles du gouvernement pour le Canada après l'epoque de 1749, n'eurent plus de bornes.

Les huit premiers mois de l'an 1760 couterent treize millions cinque cens mille livres. De ces sommes prodigieuses il étoit du à la paix quatre vingt millions.

[1] See Carleton to Shelburne, Nov. 25th, 1767, p. 281.

continent. A circumstance which varies the political considerations and consequences with respect to the arrangements of Canada very greatly from the case of Minorca, to which it has been improperly compared, as a rule for the government of it : the relative positions are totally different : it might as well be compared to the rock of Gibraltar, or the fort of an African garrison.

If Canada should be recovered by France in a future period, by the mere want of wisdom in a British government, and if France or any other power should obtain but a near equality of force at sea, the consequence must prove the conquest of all our American colonies, or perhaps the establishment of a new independent empire, upon a general revolt of all the colonies, of which Canada, by its position, would form the head. But now under proper regulations this country may be productive of the greatest commercial advantages to Great Britain. The West India islands, and the East Indies are the graves of its best seamen ; the northern American navigation and its fisheries are the nurseries of them ; and Canada may become the source of an infinite supply to this nation both of men and of naval stores.

It is an object of great consideration to your Majesty's government, that the returns to Great Britain are all made in raw materials to be manufactured here ; and that a considerable duty arises on the exports.

The views therefore of the British government in respect to the political uses to which it means to make Canada subservient, must direct the spirit of any code of laws, of which it may be judged necessary to form the outlines upon the grounds of probability. The additions must be left to time, to experiment, and expediencies, as they shall arise, and to that Providence which holds the scale of empires.

But the great question occurs : *By what authority shall the laws, necessary for the government of this colony, be established.* It is stated, that doubts have arisen, especially after certain decisions, concerning the legality of the ordinances issued by the governor, with the advice of his council, and without any assembly, *as exceeding his commission*‡[1]. If the ordinances are not legal, then all that has been done by virtue of them must be a nullity. Some of them have already been disallowed for exceeding the bounds of the commission, which restrains the power of the governor and council in matters touching life and limb, and imposing duties ; consequently very few allowable ordinances can be made under those terms at any time ; because few ordinances can be enforced without restraints upon the person, or without affecting property by public burthens.

If it should be supposed for a moment, that the crown has not a right at all times to make such ordinances in the person of the governor and council, without an assembly, (as I conceive it has a right, in a conquered

‡Printed collection, p. 25, 96.

[1] The references here are to Maseres' "Collection of Several Commissions, and other Public Instruments, &c." pp. 25 & 96. The first reference is to Maseres' "Draught of an Intended Report &c." See p. 327. The second is to Governor Murray's Commission. See above p. 173.

country so circumstanced, and at a certain time to make them) yet I should be inclined to think that all the ordinances hitherto made, and not disallowed, are legal ; or that such ordinances might have had, at least pro tempore, a validity within the province, until there shall be an alteration made by some act of the whole united legislature of Great Britain, or at least by order of your Majesty in council, disallowing them. Until such act or order, the case may be conceived to be the same (the governor being the representative of your Majesty by virtue of his commission) as if your Majesty, at the head of your army in the field, were granting capitulations, or giving orders how to dispose of the new subjects de bene esse, for the preservation of their persons and properties, for the good of the state, which is now interested in them, and for maintaining the *peace* and permanency of the acquisition : all which I conceive to be powers necessarily inherent in your Majesty's crown.

The mode of making laws for the colony of Quebec, and carrying them into execution, is a subject upon which many persons may differ. The highest wisdom only can determine whether it is necessary to have the sanction of parliament for a code of laws, which your Majesty of right may give to this colony in some other way. But I humbly apprehend, than an act of parliament may possibly serve the most effectually to justify your Majesty's servants, and to fill the minds of the Canadians with greater confidence : it may declare the powers which are inherent in the crown ; and by so doing, it may support instead of diminishing them.

There is a point which deserves the consideration of your Majesty's servants most versed in the common law of the realm, whether if your Majesty has by your proclamation, commissions and instructions, and the several acts done in consequence thereof, given to this conquered country any part of the law of England ; that law, once so introduced, be it more or less, can be repealed by your Majesty's authority alone and without the concurrence of parliament, upon the civil law maxim, *cujus est condere ejus est abrogare* ?

It is also to be observed, that general Murray is said, upon good authority, to have actually executed his commission with respect to convening an assembly ; that the members were actually chose, except at Quebec.[1] So that the expectations of the Canadians have been raised, and, in their ideas, the honour of government pledged to them for a legislative body of their own. In case an assembly shall be hereafter called, in consequence of an act of parliament, it will effectually take away from a Canadian assembly all ground for that pretence, set up by some assemblies in other colonies, of being independent of a British parliament.

If assemblies should be adopted, I cannot omit taking notice of an error in the report and propositions of the board of trade of the 10th July, 1769, page 17.[2] They propose to admit a number of the new subjects into

[1] See note p. 455.

[2] See Report from the Lords Commissioners for Trade and Plantations relative to the State of the Province of Quebec; July 10th, 1769, p. 383.

the council. They would enlarge it from twelve members to fifteen ; five to be Roman catholic subjects, to be exempted from subscribing the declaration against transubstantiation, as now required by the commission and instructions. But it seems to be forgot, that the oaths against the power of the pope, and in support of your Majesty's supremacy, required by the statutes, will exclude the Roman catholics. Also the manner of wording the plan of an assembly, p. 18 and 19, meant, as it is said there, *to correspond with the plan of the council*, makes the twenty-seven members all liable to the oaths of allegiance, supremacy, and abjuration, by proposing *that they shall not be obliged to take any other*. The consequence follows, they are then to take these oaths ; and fourteen are afterwards required to subscribe the test. Now can a Roman catholic, agreeably to the statute of 1 George I. chap. 13, take the oaths which are required to be taken, agreeably to the commission, by the governor and members of the council, assembly, &c. viz. *That no foreign prelate or person hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm ?* So that this proposition of the board of trade, plainly appears to be inconsistent with its own views in p. 20, that *the assembly should consist of twenty seven, all indiscriminately to take the oaths of allegiance, supremacy, and abjuration ; that fourteen will be protestants, viz. who shall take the test act : and the thirteen who take the oaths of allegiance, supremacy, and abjuration, to be probably, as the plan supposes, Roman catholics.* But the oath of supremacy renders the latter, in my opinion, impossible. The pope can hardly dispense with the test of the sacrament; but he cannot in common sense dispense with oaths, and declarations, and subscriptions, against his own supremacy, as claiming to be sovereign pontiff of the whole Christian world, and, in the power of the triple crown, to bind and absolve all persons and things in heaven above, on the earth beneath, and in the state of the dead below.

As it is stated by the board of trade p. 10. *The test is to be subscribed by all persons having places of trust, and so required by your Majesty's commission to the governor.*[1] By the test act the sacrament is to be taken by them within the realm of England. Although Canada is united to the crown of Great Britain, and consequently to the realm, by the terms of cession, yet I understand that the salvo among the Canadians for the oath of supremacy is, *Within this realm ? Canada is not this realm, in the view of the statute.*

After all, if it should not be thought proper for your Majesty to give fresh instructions, from time to time, to your governor of the province of Quebec, to publish fresh ordinances, with the advice and consent of his council ; nor to convene any legislative council, or provincial assembly, for the purpose of revising or repealing the ordinances already made, and of making new laws ; but if it should be thought the wisest measure to lay

[1] See p. 381.

the state of the province before parliament, then I should conceive that it will be necessary to propose several bills.

First, viz. *A bill for the better regulation of the courts of judicature in the province of Quebec.*

Second, *A bill for declaring the common law already in actual use in the said province.*

Third, *A bill for better raising and collecting the public revenue.*

Fourth, *A bill for giving leave to his Majesty's new Roman catholic subjects in the said colony, to profess the worship of their religion according to the rites of the Romish church, as far as the laws of Great Britain permit ; which were in force antecedent to the definitive treaty of peace, concluded at Paris 10th February 1763 ; and for the better maintenance of the clergy of the church of England already established in the said colony.*

With respect to the first, a bill for the better regulation of the courts of judicature in the province of Quebec, I conceive, that the complaint of delays in proceedings of the courts of justice is now in great measure removed ; for by the last regulation of the courts of common-pleas, by the ordinance of February* 1770,[1] (which repeals a part of the great ordinance of 17th September 1764) it is directed, that the courts of common-pleas established with independent jurisdictions at Quebec and Montreal, *shall be open to the suitors throughout the year, excepting three weeks at seed-time, a month at harvest, and a fortnight at Christmas, and Easter, and except during such vacation as shall be from time to time appointed by the judges for making their respective circuits throughout the province, twice in every year ; and the judges are authorized and directed to issue their process, and to execute every other thing touching the administration of justice, without regard to terms or any stated periods of time, as limited and appointed by the ordinance of September 1764; which, with respect thereto, is annulled. The judges to appoint one day in a week, at their discretion, to hear all matters where the cause of action shall exceed the sum of twelve pounds, which day should be declared at the rising of the court, or the next day preceding; and no adjournment shall be made for any longer time than one week, upon any pretence or ground whatsoever. Every Friday to be a fixed court-day for matters not exceeding twelve pounds, in which case one judge to be sufficient, the other judge having reasonable cause of absence.* The rest of the ordinance contains the forms and modes of proceeding, also a clause, *empowering persons, specially commissioned by the governor, to hear causes where the matter in question shall not exceed three pounds; provided that titles to lands shall not be drawn into question by their proceedings, and that they observe the same forms of proceeding, and that they do not sit upon a Friday, but on some other day in every week.* It would be very material to see what sort of commissions the judges of the common-pleas have, *for they do not appear in any papers referred.* I understand them

* This ordinance, which was not in the papers referred, makes the propositions of the solicitor-general on this head in great measure unnecessary.

[1] See Ordinance of Feb. 1st, 1770, p. 401.

to have been created by governor Murray, by virtue of his discretionary power, upon his own ideas. If they are thought proper to be continued, certain regulations must be adopted, in regard to limiting their jurisdiction to cases not beyond a certain value.

The expence of the fees of the new courts is easy to be regulated by a table to be settled by the judges; and if they are now larger than heretofore, it is no more than that the fees of justice keep pace with the price of other matters, as corn and all other things, are more dearly purchased now than they were in the province before the conquest, because there is more commerce, and consequently more specie circulating in it, which is the representative, or rather the new measure of values; so that more or less specie must be put into the opposite scale against all property in the other, just as it happens, that more or less specie, real, or nominal, or credited, is introduced into intercourse and commutation. The case must be the same in Canada as it is in every other country ; and the uncertainty of the laws, and of the judicial proceedings, has had no small share in increasing the expence of them.

In the report* of the attorney and solicitor-general Yorke, and De Grey,[1] they recommend that matters exceeding forty shillings, as far as ten pounds, should be determined by proceeding (in the nature of civil bill in Ireland) before the chief justice of Quebec, or by proceeding in nature of the summary bench actions at Barbadoes. How far the ease and cheapness of going to law encourage rather than check litigiousness, is pretty obvious ; however, the local value of money will deserve consideration at all times, in respect to the augmentation of established fees. As a check to litigiousness, and for the promoting quick justice, some method might be found, so as to oblige parties in cases of debt under a certain value, and in all cases of custom of merchants, and of mercantile accounts, to name arbitrators, and those arbitrators to name a third if they do not agree ; and that the award should be certified into the superior court, and made a rule of it upon record, and so carried into execution by it, in the same manner as if the matter had had the most solemn hearing : for which I cannot refer to a better precedent, than to the act of 9 and 10 William III. c. 15. except that the reference is there left to the will of the parties, and of course that act is seldom made use of, nor is it very natural that the practisers should recommend it ; and therefore I propose, that parties, in cases of certain value, should be obliged to name arbitrators.

As the English judges may not happen to be expert in the French language and law terms, it may be adviseable to give to laymen, persons of good character and under standing among the ancient inhabitants of Canada, commissions to be assessors, but not to have voices.

Whether grand juries, or petty juries, shall be laid aside ; or whether in criminal ; or civil causes only ; or whether verdicts shall be an open majority,

* Art. vi, No. 8. of the Appendix to the report of the lords commissioners of trade and plant ations relative to the state and condition of the province.

[1]See p. 251.

or whether all verdicts shall be special in civil cases, (as the latter is proposed in the plan in the printed collection of Mr. attorney-general Mazeres) are questions of which I am not able to form a perfect judgment, as being partly out of the line of my profession ; but it merits a particular consideration, how far it may be adviseable and safe for your Majesty's ministers to propose any thing to parliament that greatly deviates from the general fundamental parts of the constitution at home, and which, for a long time, have already taken place in the colony, in consequence of your Majesty's royal word and authority. The justification of your Majesty's judges, the removing them from every suspicion of partiality, and from the danger of personal revenge, is also a matter of the highest consequence towards themselves, their country, your Majesty, and before God. The peril of discretionary powers, is sufficiently pointed out by that great judge lord Hale, in his History of the Pleas of the Crown, page 160, 161, 211, and it merits the greatest attention from those persons who are called upon to propose a legislative system.

After the evidence of the governor, chief justice, and attorney-general of the province, *that juries in criminal causes are agreeable to all the Canadians*, any imaginations formed to the contrary, with respect to the Canadian lords of manors or noblesse, cannot be admitted. The state of the noblesse in the province will be more particularly explained, when I come to speak of the convents, under the head of religion; I will only observe, in the case of trial of a seigneur, that other Canadian seigneurs would probably be some of the jurors, and that *if any of his tradesmen were of the jury*, they would have an interest in preserving the life of the criminal ; as mercantile interests have often supported the worst members in a factious state, both in ancient and modern history, to avoid a probability of losing their debts. But the seigneurs or noblesse by virtue of their fiefs, and the officers and nobles by patent, who have served in the French troops, are, the one too inconsequential, and the other too miserable, in point of property, to merit any distinction by trials, or in the nature of the punishment : to compare them to British peers would be to form an argument of ridicule and not of reason.

As it appears that the Canadians have had so great an objection to arrests being dishonourable, and as arrests create so much misery in a whole family, who become a burthen upon the public, as they prevent every exertion of industry, and render the morals of the prisoner much worse, by confining him in company with the most abandoned criminals, it seems to me that in a commercial state it may be proper to take away arrests of body in the first instance, in civil causes under ten pounds ; unless there is an oath of two sufficient witnesses, that the defendant is likely to withdraw himself out of the colony. To arrest an industrious man, when personal labour is of such value to the community, is a public loss, as well as a private one to the person who arrests : it is putting fetters upon that industry, the exertion of which only could discharge the debt.

If arrests should be allowed, it seems highly necessary that imprisonments should be regulated. It would be happy if they were so in every part of your Majesty's dominions. The security and reformation of prisoners should be the objects of the legislature in depriving a subject for any time of his liberty : his life, and health, and morals are of public consequence. The police in Holland, where every prisoner has a separate cell or apartment, is deserving of imitation ; neither their minds nor bodies become there liable to the worst contagions ; and a released prisoner returns back to society a better and more useful subject than when he entered his cell.

The terms of the ordinance of the 1st Ferbuary, 1770, appear to me insufficient, in not directing that the sale of all estates in land taken in execution shall be made by public auction ; nor does it regulate the other conditions of sale, nor the place where the auction shall be : all which being left to the discretion of the provost-marshal, as I conceive it, may be extremely injurious to the proprietor; and furnish persons with means of procuring the estates at a price greatly inferior to their true value. The ordinance only settles the manner of giving notice, the time of sale, and the fees for the publication.

It may be proper to allow all pleadings to be in French or English in all the courts at the option of the parties indiscriminately. It should be known in such a country, that parties may plead for themselves : it would be proper to confirm expressedly so much of the process verbal, or rules of practice, in the French courts of the colony of the 7th November, 1668, article 6, as relates to this point ; because this public confirmation will obviate the complaint among the Canadians, of the expence of suits, and it will please the inhabitants, without hurting the practitioners ; for if the parties can find an abler hand, or can pay him, certainly they will pay him to plead for them : if they cannot, it is but justice they should be permitted to tell their own story, and in their own way.

I am professionally convinced of the absurdity and confusion which is ever occasioned when the style and forms of one system of law, or even of one court in the same system, is applied to the practice of another : the measure of proceedings being inconsistent with the nature of the principles, or the business in question, is in many instances so unequal, that to judge of the law of one country by the rules of process of another is, besides doing injustice under an appearance of doing better, a thing as full of absurdity and ridiculousness, as if a taylor were to take a measure of a man's coat by a ship's quadrant. The forms and style of English writs and pleadings ill agree with the language of the French civil law : it deserves to be considered, how far it may be necessary to follow many other parts of the French process, if the French law in civil property is to remain as the common law of the province. I conceive this must be left to the knowledge, discretion, and experience of the judges ; who will have the aid of the bar and the

Canadian practitioners : and it may be enacted that no judgment* shall be arrested merely for want of form in civil suits. The fact, the demand, and the defence are easily reducible to simple propositions. But in *criminal cases*, as all the law of England on that head actually now is introduced, the forms of indictment, in *my opinion*, must be continued, and ought to be as strict as in England ; upon this ground, because the laws of England being dipt in blood, the advantages given to criminals, by the lenity of the process, and the power of pardon in the crown, are the only ballance of the peculiar severity which is manifest in the inequality of crimes and punishments. The English laws in their institution seem to have been made for the terror of a daring people ; the execution of them, for a generous and compassionate one. I concur in thinking that there should however be a mitigation of the law of felonies by statute. That no person in the province should be capitally convicted for theft or robbery under five pounds, although *that is equal to ten in England* ; and that in all felonies intitled to clergy, no persons shall be burnt in the hand, or their goods confiscated, but the punishment to be a fine or imprisonment, at the discretion of the court.

As the province derives the less advantages from the superior court, although the most important, and most ably supplied, for want of more frequent sittings, it should be regulated : and the court of King's Bench should be held oftner, and in terms as shall be judged most for the convenience of the inhabitants, besides the circuits. For it is stated that the court of King's Bench has sessions only three times a year at Quebec, and twice at Montreal : whereas in the time of the French government there were three royal courts, one in each district of Quebec, Trois-Rivieres, and Montreal, vested with full power civil and criminal : each court had its judge, and a king's attorney-general for crown prosecutions. They held two courts in every week, except six weeks vacation in September and October, and a fortnight at Easter, and these courts would even sit on other days in the week if extraordinary business required it. From these courts there lay an appeal to the supreme council of the province, which sat every week. The expedition and reasonableness of such arrangement for the distribution of justice is infinitely striking. And it appears not to have been without cause that the Canadians have felt and complained of the difference. To make the sittings of the supreme court of King's Bench more regular, it cannot be better than to adopt the ordinance for that purpose, which was recommended by the chief justice himself from the bench to the grand jury of the province, but which did not pass, because some of the English merchants of that jury, desirous to delay causes of actions for debt in the then low state of commercial credit in the province at that time, did not approve so much expedition of judgment ; and therefore the English part of the jury never acquainted the Canadian part, all of whom are now

* Vide solicitor-general's Report.

sensible of the utility of the ordinance proposed, and regret the loss of it. Mr. attorney-general Mazeres has printed it, Collection, page 71.[1]

In the cases of appeals the legal value of money deserves great consideration. If the plan of three courts and an appeal to the governor and council, with two of the judges and King's attornies of the other courts, is not adopted, then the appeal, in cases of four hundred pounds value, might be made directly to your Majesty, without any other intermediate appeal.

It may be also proper to erect, as proposed in the report of the governor and chief justice, a court at Dêtroit, because the settlers there, amounting to about seven thousand persons, are populating very fast, and extending themselves, as the people of New York are, towards each other. An objection may be taken to this, that it is not policy to encourage back settlements: but the question seems to be, not whether the population of the interior North America should be encouraged in policy ; but the fact is, that there is, and will be population there ; and that where population is, the dominant power must regulate the settlers, or they will regulate themselves probably to its prejudice. The interior settlements certainly are a material supply and support, both of men and provision, to the exterior on that coast, and serve equally to take off the produce of the mother-country, and to make returns by the medium of the sea-ports ; but there can be no real distinction as to political good between the inhabitants of the maritime line and those of the back settlements, for they are much connected in view of national strength and benefit ; as the radii of a circle all meet in the same common center, and all touch the same extreme boundary.

The great distances of Montreal, one hundred and eighty miles from Quebec, also of Trois-Rivieres, and Dêtroit, deserve attention; and it is an argument sufficient for forming three courts of King's Bench, to save to your Majesty's subjects the great expence of employing for every person, not only his attorney on the spot, but his agent at Quebec, besides the fatigue and expence of travelling himself, and bringing up his witnesses from the extreme boundaries of the province, in a very severe climate. I approve, however, that it should be in the discretionary* power of your Majesty's principal attorney-general, to remove any party for safety for a quick and more convenient trial to Quebec; but this should be restrained to cases of treason only.

It is a fact which deserves attention, that for want of a good government since the conquest, the trade of furs has been but one third of what it was under the French, as appears by the exports.

To look into the map, the situation of Dêtroit sufficiently speaks the propriety of some regulation of justice there ; and more especially as it is the mart and entrepot of the fur-trade and the Indian commodities, such a regulation is necessary for the trade, and for preserving peace and friendship with the Indian nations resorting thither.

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[1] The reference is to Maseres' Collection of several Commissions, &c. 1772, p. 71.
* Vide solicitor-general's report.

When Gaspey shall be settled, a jurisdiction should also be established there ; but I should apprehend, from observing the situation and form of it in the map, that it might be very proper to unite it to the province of Nova Scotia.

I should imagine it would be very useful if the judges were to have a power, in cases where it might be thought necessary, by themselves, to appoint commissioners in distant parts, with power to summon juries, before whom examinations may be taken, with proper solemnities, upon the spot, and a verdict transmitted to the supreme court under seal, whenever a matter of fact, such as concerning boundaries, waste, dilapidations, execution of contracts, damages done, &c. is in dispute.

The taking evidence in private upon affidavits should be disallowed, unless the parties should consent, or the court should direct them to be taken upon a special cause, or proper grounds shewed upon motion by council. The injustice of parties being evidence upon their own cause, and the practice of causes being determined entirely upon affidavits, is too full of evil not to deserve a peculiar attention, especially if the party who makes the first affidavit, has not a liberty of a reply to the affidavit in answer; in the usual practice, as I conceive it to be, equivocation and perjury must reign in full force.

It is proposed, by Mr. Mazeres, that in cases of debt to a certain amount (which ought to be very considerable), an allegation, or plea of faculties or effects, being delivered by the plaintiff, the defendant should answer upon oath, giving in an exact schedule of his estate and effects.[1] This proposition may be thought peculiarly hard in many cases : but I conceive the state of the country must determine the propriety or impropriety of the proposal, and that such schedule and account ought not to be called for without very special cause, to be determined in the discretion of the judges.

In a country in which there is very little money, but corn and other perishable effects make the greatest part of the property of the inhabitants, it may be right, in cases of suits for some special property, of the perishable nature of which a proof is made, that the whole at the request of any one of the parties should be liable, by an order of the court, to be sold to the best bidder, by persons to be named and commissioned to sell by both parties ; and that the amount shall be placed in the hands of the judge and his register, in imitation of the civil law methods in *usum jus habentium*, or for the account of the party who shall finally prevail in his suit ; and the amount to be paid by them into the hands of the receiver of his Majesty's revenue, for his Majesty's use ; and that bills be issued to the said judge and register by such receiver for the repayment of said sums, at the interest of three per cent. A measure which I should conceive would be very useful to create a dependence upon, and strengthen the hands of government in

[1] See Maseres' Draught of Report, p. 359.

many views, as well as it would be equitable and advantageous to the respective parties.

It may be right, that the judges of the several courts in the province, should be allowed a discretionary power in granting of full costs, and taxing bills.

Instead of one provost-marshal for the whole province, it is proposed, that there should be a sheriff for each district, with some title or mark of honour to the person who should bear it.

The two courts of common-pleas, established by general Murray's ordinance of 17th September 1764, at that time with military men for judges, and priests assessors, and now having almost all the affairs of the colony brought before them, evidently tend at all times to lessen the utility and consequence of the supreme court.

Mr. Mazeres recommends[1] that the province be divided according to its three ancient districts of Quebec, Montreal, and Trois-Rivieres; that there should be three royal courts, or courts of King's Bench, in each ; that the judges should have been barristers at law, who have been exercent three years at the English bar, at least, and who have a competent knowledge of the French language, and three King's attornies, and no other courts. These courts to be limited to their respective district ; co-ordinate indeed, but not concurrent, as not of equal authority every where, nor as liable to be controuled by each other: and this measure Mr. Mazeres recommends on a ground which appears to be very conclusive, that this division is best adapted to the situation of the several parts of the province, and that the Canadians have been used to it, and that it is therefore most agreeable as well as convenient.* If this establishment of three courts were to take place, then it is proposed, in the same plan, that there should be an appeal to the governor and council of the province, confined to a certain value, and from thence to your Majesty in your privy council. The reason laid down is, that the appeal to the governor and council would preserve a uniformity of law throughout the whole province, and would obviate a difference of decision, which might gradually grow out of precedents in the three different districts, if the three royal courts, or of King's Bench, were to be left perfectly independent, and not to unite in a third superior court in the province.

It is also very well proposed, that the three King's judges, and three attornies should be members of the council ex officio, so as to aid the governor and council upon appeals ; whereby the best law abilities in the province would be employed in forming decisions in the last resort, which would be in fact checking any arbitrary proceedings of a governor, and forming the law of the province. That they should attend the governor at certain times of the year, most convenient for hearing appeals, which is thought to be one month at Christmas. To this I must add, in my humble opinion, a necessary limitation, that the judge from whom the appeal lies, and the

[1] See Maseres' Draught of Report p. 355.
* Printed Collection, p. 38.

King's attorney in his court, shall not sit at the hearing of the cause appealed. It might possibly not be improper to add the judge of the vice-admiralty, and the advocate-general, to the number of the members of the council, as before proposed.

That no appeal should lie to the King and council under five hundred pounds, is thought by some persons a hardship, and that it leaves no check upon the governor and council in less sums of great value in so poor a colony.

It is proposed by Mr. Mazeres†,[1] that no new examinations shall be taken upon appeals in any causes, but only any error of the proceedings be corrected, and a new trial of any fact, if good cause is shewn, shall be granted ; and a trial, by a double number of jurymen, if the losing party requires it. That the method of proceeding in the first instance in civil actions* in the common law court, should be as follows ; the plaint is to be read to the judge in open court ; if he determines that there is good cause of action, summons to issue, but not till then. If the plaint is admitted, it is to be filed as a record ; if non-appearance of the party, or good cause shown of non-appearance, then the party summoned to pay costs, at the judgment of the court, upon circumstances, for the delay of suit ; and fresh summons to appear again shall issue ; if neglect to obey the second summons, judgment to go by default. Answer to the plaint to be either in French or English, and to be filed. That the judge may interrogate the parties himself, in order to determine whether farther testimony is necessary. If either of the parties, on the judge determining that farther testimony and trial is necessary, chuse to have a jury, the party praying it shall pay the expence of the jury's attendance ; if both pray to have a jury, both shall pay. If the contest is between a native born subject and a Canadian, the jury to be de medietate, if either party shall require it : the jurymen to receive five shillings per man. For at present the Canadians, as it is stated upon good authority, complain of the attendance upon juries, in civil suits, as a heavy burthen and interruption of their occupations: though they like well enough to be tried by juries, they do not like to be the triers‡, without some compensation.

That any governor should have it in his power to suspend, supersede, or otherwise controul, the counsellors or practitioners at the bar, is evidently liable to many objections. In my humble opinion, therefore, it seems necessary to enact, that for the better regulating all the public courts of justice of the province, the chief justice shall have the sole power of admitting and licensing all advocates, counsellors, and pleaders, procurators, attornies, and solicitors, in the several courts of justice in this province ; with power to make rules for the proper serving or education of such persons, and to examine them before admission, and to reject them if he shall see

† Printed Collection, p. 38, 39.
* Printed Collection, p. 33.
‡ Printed Inclosure, p. 38.
[1] See Maseres Draught of Report, p. 361.

cause ; also to suspend or deprive them of the exercise of their offices, for any neglect, contempt, delay, or malversation, fraud, or undue proceeding, in his or any other court, when he shall see cause ; and the governor of the said province shall not interfere in the same in his public capacity.

It is also a point that merits great attention from government, that the notaries, who are a very useful and very respectable sort of men, should be continued with their usual privileges, and have some advantages granted them, and should be allowed to practise as solicitors and advocates, and even to be assessors.

It would be right that the law officers of the crown should have honourable establishments, so as to raise them high in respect from the inhabitants, and to make them less dependent upon private business. Their salaries, as stated in the Inclosure Appendix, No. 15, are very mean and unworthy of men of education, abilities, and honour. Those clients who pay best for time and labour, will certainly be best served. An encrease of salaries will create an expence : but there may be a false œconomy ; and there is no doubt of the truth of this proposition, that a small body of men of abilities in the law, sent out and maintained by the crown in a manner adequate to their rank, and made independent of every private connection, will answer the views of government, and preserve the peace of the colonies more effectually than ten regiments. What has been the consequence in the colonies, and elsewhere, of independent men of great abilities in the law, dissatisfied, with reason or without, and who have gratified their own resentment, or the views of a party, at the expence of the whole kingdom, I need not to observe, and shall only refer to that part of the report upon the civil government of the colony made by Mr. Yorke and Mr. De Grey, which is very strong indeed upon this point† ; of the meaness of the law establishment, which has too long remained a dishonour and a prejudice to your Majesty's service.

The second head proposed is a bill for declaring the common law of the province.

The Canadian lawyers are, it seems, not entirely agreed how much of the French system of the custom of Paris§ has actually enured in the province of Canada. The capitulation for Montreal and the province, article thirty-six, which engages to preserve to the inhabitants their property, seems to me to stipulate the *manner* in which that property is to be held ; of consequence the tenures are to be preserved, and all the laws relative to that property. For it is not only the thing which we hold, but the manner in which we hold beneficially, that constitutes our property; therefore I conceive that all the lands in Canada, the property of native Canadians, or which have since passed by descent or by will, are, in virtue of the capitulation, still governed by the law of France, as to the tenures or modes of holding ; although by the forty-second article of the capitulation

† Vide p. 156, Inclosure of the Board of Trade, Art. 2.
§ Printed Collection.

granted for Montreal, and the rest of the province of Canada, and by the ninth article of the treaty of Versailles, *the inhabitants become subjects of your Majesty*. How far your Majesty's proclamation, and the commissions and instructions have or have not superseded this idea, arising out of the terms of the capitulation and treaty, and how far the case of the new settlers, emigrants from Great Britain, and acquirers of lands by new titles, as by mortgage, grant or purchase, is capable of a distinction, has been already observed upon.

I think there is a great distinction between the treaty and capitulation; for the treaty, which makes the inhabitants subjects of your Majesty's crown, confirms to them their property in no other mode than in a permission to retire, and to sell their estates, and those restrained to be sold to British subjects.[1] So that if they stay and claim under the treaty only, they stay under condition of becoming, by their own free act, *British subjects* ; and as such subject to British laws. But the treaty made with the sovereign power of France, which, without taking notice of the capitulation, transfers its subjects pleno jure, does not supersede the capitulation made with the inhabitants ; because I consider capitulations, in the eye of the law of nations, to be not only as national, but personal compacts, and made with the inhabitants themselves, for the consideration of their ceasing their resistance. It is consistent with the honour and interests of this kingdom, that they should be religiously observed, and that the condition of the grantees should be rendered substantially better, rather than worse, so far as any person or persons are capable of taking benefit of the grant.

At the same time I must observe, that I do not conceive that your Majesty is so bound in your legislative capacity, that you cannot in parliament change the laws of succession or heritage, or prevent the keeping up any corporate body ecclesiatical, by preventing a perpetual renewal by new members, or that your Majesty cannot regulate any other general matter of dividing property real or personal, after the death of the possessor, in the same manner as your Majesty, in parliament, may change the laws respecting your other British subjects ; so that the law be not made to the prejudice of any particular private person while he lives. Inasmuch, as no man naturally hath property after death, the community to which it reverts has a right to fix the law of partition after death, as it shall judge most for the benefit of all its members. The right to dispose by will, or to make a private law for a family, is a privilege granted by the community; and restrainable, as the law of France restrains it more than that of England, by excepting the legitime and limiting devises of land in certain degrees, except by deed by and among parties living.

It would probably answer every just and reasonable purpose, and would tend perfectly to quiet the minds of your Majesty's Canadian subjects, if a bill were to pass in parliament to the following effect. That in all

[1] See Treaty of Paris, 1763, art. 4, p. 100.

cases of wills, tenures, ancient rents, quit-rents, service not being military, divisions of lands, and transfers, hypothecations, or charges and pledges, or incumbrances of property, moveable and immoveable, and of hereditary descent, or partition of dower, or distribution in cases of intestacy, the legitime, or portion of children and widows, and of all deeds, leases, and contracts, the ancient laws, customs, and usages of Canada shall be valid ; unless the said customs and usages shall have been deviated from by any consent of parties by express convention, or in which the modes of the English law, as in cases of transfer between a Canadian and English born subject, shall have been followed ; that in all cases where such custom and usages of Canada are relied upon, either by the party complaining, or the respondent, such custom and usage shall be specially pleaded. And in order the better to erase from the minds of the Canadian subjects,their ideas of veneration for the edicts of their late sovereign, and for the arrets of the tribunals of France, and as much as possible to make them sensible of their union with, and dependence upon the British government, it should be enacted, that the French law, known under the denomination of the custom of the viscounty and provostship of Paris, and so much thereof only as hath actually been practised in the province, shall be pleaded under the title of *the common law, and the custom of Canada, as by act of parliament established*, and under no other title whatsoever ; and the abstract of the said custom, as hath been drawn up by a committee of Canadian gentlemen of the law,[1] shall be annexed to the bill to be referred to, as the sole rule; observing only the alteration in the articles 99 and 101, as in the advertisement or preamble of the said abstract is set forth ; that lands already granted, or to be granted by your Majesty, your heirs, or successors, shall be holden in free and common soccage tenure, and shall pass according to the laws of England: power always reserved to your Majesty to make grants of lands in any other mode of tenure, if to your Majesty it shall seem meet.

The mode of doing fealty and homage for the Canadian seigniories already established is extremely simple, as appears in the principal extracts of the French laws, c.i. tit. *Foi et homage.* If it is proper to change it at all, it will be better to form a record of the title of the tenure in a more solemn manner, by registering the homage.

It may be proper that the laws of the police hitherto established and practised, should be observed and carried into execution by the justices and other peace officers, and that his Majesty's governor may, with the consent and advice of his council, at any time, on the presentment of any two or more house or land-holders, or any one of his Majesty's justices of the peace, or law officers, issue such fresh orders of police as he shall

[1] The reference is to the abstract of French law entitled "An Abstract of those parts of the Custom of the Viscounty and Provostship of Paris which was Received and Practised in the Province of Quebec in the time of the French Government. Drawn up by a select Committee of Canadian Gentlemen well skilled in the laws of France and of that Province by the desire of the Hon. Guy Carleton Esq. Governor in Chief of the said Province, London 1772." See also note 3, p. 300.

judge necessary, from time to time, for the better maintaining the highways, streets, bridges, paving, public edifices, wharfs, navigations, for preventing fire and removing of annoyances to health, or to the free passage, in places where passage hath been usual ; provided that such orders be subject to an appeal in cases of property, above the value of ten pounds, to the chief justice of the said province.

The Canadian inhabitants readily enough embrace the protection of the laws of England when they find they make for them. There is something very whimsical in the case of M. St. Ange, which I have seen as stated upon great authority, and it shows the motly mixture of French and English laws in the province, and the confusion resulting from the uncertainty of them, and the want of a regular settlement. Mr. Grant purchased the estate of a minor, Mr. St. Ange ; the former a British settler, the latter a Canadian. Mr. Grant never having seen the estate, paid a part of the purchase money, which was very considerable : upon a view of the estate he found it inferior in value to his expectations by one half. He was sued for the remainder of the money ; he pleaded the civil law of France, and insisted that he was intitled to a restitution *in integrum*, on proving the true value of the estate to be only one half. The Canadian insisted upon the laws of England, and a special performance of contracts, on the ground of the rule of the law *vigilantibus non dormientibus succurrit lex*. This cause will probably find its way to the council at home.

The description given by general Carlton, in his letter to the earl of Shelburne, No. 3. p. 90. 24th December 1767,[1] of the confusion of the courts of justice, and the consequence of their proceeding by different rules is very striking : *the governor and council, as a court of equity, reversing the decrees of the supreme court of King's Bench, which reverses that of the Common Pleas.*

There are a number of edicts, declarations, rules, ordinances and provisions, which have hitherto been the written law of the colony, and in actual use; which appear from the extracts to be so wise and well fitted to the nature of the colony, that although they cannot now operate by the authority of the French King, yet they seem many of them very proper to be adopted in the new system of law to be given to the Canadians ; and therefore it may be right that the substance of those extracts which are proper should be declared to be a part of the common law of the province of Quebec ; and to be recited accordingly in this act of parliament, and to be pleaded under it, and not under any other title than as *the act of his present Majesty for declaring the common law of the province.*[2]

This article cannot be concluded without taking notice of the act of habeas corpus, the benefit of which, if extended to this province, may in policy be limited, on account of the peculiar circumstances of the province,

[1] See Carleton to Shelburne, Dec. 24th, 1767, p. 288.

[2] In Appendix No. III to Marriott's report, a list of these is given, with the introduction, "In addition to the act proposed, under the head of the Law of the Province, it may be right to consider the following ordinances made by the governor and council."

and the natural views of the court of France in case of a future war. The governor and council may have a power to suspend the effect of the said act, during the time of any hostilities or declared war, rebellion, insurrection in arms, or invasion of the province, or any other of the dominions of Great Britain.

The proposition made by Mr. attorney-general Mazeres, in his printed draught of a bill for parliament for settling the laws of the province,[1] deserves a very particular consideration, whether it may be useful (if it is thought proper to deviate at all from the French laws of Canada respecting civil property) to introduce the mode of distribution, so equitably settled by the famous act of Charles II ; the English law of dower ; of wills of personal and *real* estate (in which latter case, the French by their own law are under some restraint) ; inheritance in descent, and of coheirs ; with some alterations in the French and English law more consonant to natural equity with respect to parents in the right time ascending inheriting the lands of children, in default of heirs in the descending line, or of brothers and sisters in the collateral, and less consonant to the feudal principle ; which restrains that ascent, and which gives, according to the law of England, the preference to the uncle to inherit the lands of his nephew before the father of that nephew.

In the preface to the abstract of the laws of police, drawn up by the Canadian lawyers, great complaint is made of the not observing the arret of the council of state of 28th April, 1745,[2] which forbids the building any house or outhouses with stone or timber, unless the owners have annexed a French acre and a half in breadth, by thirty or forty in depth, on pain of a hundred livres as fine, and demolition ; except granaries, hay lofts, and store houses. It is represented that the present inhabitants avail themselves of the laws of England, and croud together, as it is natural ; in consequence of which many of them live very miserably and idle ; and the lands which are more remote remain uninhabited and without cultivation. To endeavour to enforce the substance of this arret, by any act of the British legislature, would be deemed a hardship unnatural to the freedom of our government, nor would such an act be carried into force : and therefore, like all other acts unexecuted, which are found to be mere swords in the scabbard, it would only serve to weaken the high idea the people yet have of the sovereign authority.

The present allotments of lands are thought, being parcelled out in contiguous columns of a certain breadth and depth running up from the river St. Laurence, to be the best calculated partitions possible for the maintenance of each separate family and for mutual aid and defence ; and therefore the preserving of the indivisibility of these allotments is an object which is thought to merit the attention of legislature : with this view Mr.

[1] Referring to Maseres' "Draught of an Act of Parliament for settling the Laws of the Province of Quebec." published 1772.

[2] The reference for this ordinance is given in the note on p. 345.

Mazeres proposes, in a printed draught of an act of parliament,[1] an alteration of the laws of inheritance, to take effect at a distant period, so as to hurt no persons now living, who therefore cannot complain; which alteration might answer the purpose : besides, that by the power of making wills or deeds, every man has it in his power to form another law for himself, and his family, descendants, or devisees, so as to render any fixed law of inheritance of no effect, if it does not fall in with his own ideas ; by these means, agreeably to the spirit of human pride, which carries its views beyond the grave, he may unite all the lands he possesses, in one hand, and in a certain line, the first point of which the testator is delighted to form, and to extend himself into an ideal perpetuity by succession. The French law restrains at present the power of devising by will, by its alloting portions called the legitime ; the Canadians may defeat the new law of inheritance as proposed, at their own pleasure, if it were to take place by their wills or marriage contracts. The modification of introducing the law of primogeniture to take place at a certain distant period, strikes me as very prudent ; because I am fearful that nothing would tend more certainly to give disgust to a people, however disposed to submission, than an immediate alteration of ancient laws of inheritance, well known among them, and settled by usage into a kind of holy reverence.

A change of the law of dower, and of all that article of the French law concerning property between husband and wife in communauté might be rendered useless, if the proposed change on this head were carried into execution : for altho' the French law has its subtilities, and might be amended and simplified by the introduction of the English law of dower ; yet the fact is, the law of dower is rendered ineffectual in England, by the creation of trusts, and frequency of marriage settlements : the French are particularly accustomed to make formal marriage contracts, even when a very small property is the object of those conventions, and among the lowest people.

In respect to wills, I approve the amending the English statute of frauds, and extending the same formalities to personal estates as to land. The proposed article, that no will shall be valid, which is not executed seven days before the death of the testator, with several amendments of the statute, will be of very great service, yet not sufficient, in my opinion, to prevent fraud, which the solemnities of the very forms, required by the above statute in the case of lands, have rather furnished with tools to intrench itself instead of defeating it. Nothing can effectually destroy fraud but the attestation of public persons ; the lodging an authentic copy sealed with a magistrate, by the testator himself, and the revocation as formal as the making of a will: all which I think is admirably well answered by confirming the French law, as in the printed extract, Tit. XIV. Art. I. If the distance of seven days between making the will and the death of the testator were added, in order to give validity to an act requiring so much

[1] See note 1, p. 475.

deliberation as a last will, it might be still better, and that even the party should have appeared at some place of public worship, and according to the Scotch law, at market, if there is one, in the interval between making his will and before his death.

The English law of distribution of personal estates in case of intestacy, I conceive to be a very good law, because very clear and very equitable. It seems unreasonable that the English settlers should submit to the French law in regard to personal, however they may acquire lands under the French law, now proposed to be adopted, so as to be considered hereafter as the English common and local law of the province. An uniformity of the law of personal estate would be extremely convenient and useful for all the inhabitants in a commercial country, and it would prevent great confusion when Canadian and English families come to be more mixed. As lands are a permanent, but personal is a floating property, the laws relative to them may well be made different ; the policy which regards the encouragement of personal industry and commerce on one hand, and the permanency of landed possession, for the purpose of keeping up degrees of subordination in the subject, and for the better tillage and military defence of a kingdom on the other hand, dictates this distinction.

At the same time I conceive that the French laws of distribution of personal property, in cases of intestacy, and the legitime have a great deal of equity ; yet with respect to the partage of their lands among all the children, without regard to primogeniture, it is attended with great inconveniences to themselves. Nothing reduces the families of the ancient French seigneurs to misery more than the division and subdivision of their lands by their own law ; a law, which though it appears at first to breathe more the spirit of democracy than of monarchy, yet it is in fact calculated for a military government only ; because nobles so reduced can and will only live by the sword.* The allotments to the under tenants in Canada are about eighty acres, just sufficient in that cold country for summer pasture and winter fodder, for the cattle of one family. I have no objection to any middle system between the French and English law, better calculated for keeping up a sort of yeomanry or gentry, with estates or seigniories as now allotted, of about two or three hundred pounds a year when well cultivated, and to be indivisible ; provided that it is right to new model the colony all at once. Probably every year, as more remote from the conquest, will lessen the sub-ordination of the people, and may encrease to your Majesty's government, the difficulties of any future reformation, of both the law of England, and of France. The propositions of Mr. Mazeres on this head, the reflection

*Des les premiers jours de la colonie, on l'avoit comme étouffée au berceau, en accordant à des officiers à des gentilhommes un terrein de deux à quatre lieues de front sur une profondeur illimitée. Ces grands propriétaires hors d'état par la mediocrité de leur fortune et le peu d'aptitude à la culture, de mettre en valeur de si vastes possessions, furent comme forcés de les distribuer à des soldats ou à des cultivateurs, à charge d'une redevance perpetuelle. C'etoit introduire en Amérique une image du gouvernement féodal qui fut long temps la ruine de l'Europe. Histoire Politique, tom. vi. p. 143.

of governor Carlton on the close of his letter, No. 5.[1] (proposing a few companies of Canadian foot and officers) upon the effects of division and subdivision of lands in every generation ; the idea of the French government in the arret quoted, but impracticable to execute, and the laws of Normandy, which agree in part with the propositions of Mr. Mazeres, are reasons in favour of this change. Whether it may be a measure fit at the present, or at a future time, and by what authority to be carried into execution, must be submitted to the opinion of those persons who are best acquainted with the disposition of the inhabitants, and the state of the colony in the present partitions, and to your Majesty's royal wisdom, upon the question of the present expediency. The detriment of the French colonies, as an obstacle to the clearing and cultivation of more lands, arising from the French law of partition, is so strongly painted by a French writer[2] of great authority and abilities, that his opinion appears to me to be conclusive : I have therefore given the whole of his opinion in the margin†.

There is one more observation which is to be made, before I dismiss the subject of landed inheritance, that both by the subtilities of the English and of the French laws, the commutation of landed property is rendered liable to much delay, difficulty and litigations on titles, and prevents its being brought into commerce so much as it might; which is a matter of the utmost importance in any commercial country, particularly in a new colony, where

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[1] See Carleton to Shelburne, Jan. 20th, 1768, p. 294.

[2] Abbé Raynal.

†Qui le croiroit ? Une loi qui semble dictée par la nature même, qui se presente au cœur de l'homme juste et bon: qui ne laisse d'abord aucun doute à l'esprit sur la rectitude de son utilité: cette loi cependant est quelquefois contraire au maintien de nos sociétés: elle arrête les progrès des colonies, les écarte du but de leur destination; et de loin elle prepare leur chûte et leur ruine. Qui le croiroit ? C'est l'égalité de partage entre les enfans ou les coheritiers. Cette loi si naturelle veut être abolie en Amerique.

Ce partage fût necessaire dans la formation des colonies. On avoit à défricher des contrées immenses. Le pouvoit on sans population ? et comment sans proprieté fixer dans ces regions éloignées et déserts des hommes qui les plus part n'avoient quitté leur patrie que faute de proprieté. Si le gouvernement leur eut refusé des terres ces avanturiers en auroient cherché de climat en climat, avec le désespoir de commencer des établissements sans nombre, dont aucun n'auroit pris cette consistance qui les rend utiles à la metropole.

Mais depuis que les heritages d'abord trop étendus ont été reduits par une suite de successions et de partages soudivisés, à la juste mesure qui demandent les facilités de la culture; depuis qu'ils sont assez limités pour ne pas rester en friche par le défaut d'une population équivalente à leur étendue, *une division ultérieure de terreins les feroit rentrer dans leur premier néant.* En Europe, un citoyen obscur qui n'a que quelques arpens de terre, tire souvent un meilleur parti de ce petit fonds, qu'un homme opulent des domaines immenses que le hazard de la naissance ou de la fortune a mis entre ses mains. En Amerique, la nature des denrées qui sont d'un grand prix, l'incertitude des récoltes peu variées dans leur espece, la quantité d'esclaves, de bestiaux, d'utensiles nécessaires pour une habitation: tout cela suppose des richesses considerables qu'on n'a pas dans quelques colonies, et *que bientôt on n'aura plus dans aucune* si le partage des successions continue à morceler, à diviser de plus en plus les terres.

Q'un pere en mourant laisse une succession de trente mille livres de rente. Sa succession se partage egalement entre trois enfans. Il seront tous ruinés si l'on fait trois habitations: l'un parcequ'on lui aura fait payer cher les bâtimens, et qu'à proportion il aura moins de negres et de terres; les deux autres parcequ'ils ne pourront pas exploiter leur heritage sans faire bâtir. Ils seront encore tous ruinés, si l'habitation entiere reste à l'un des trois. Dans un pais où la condition du crèancier est la plus mauvaise de toutes les conditions, les biens se sont élevés à une valeur immodérée. Celui qui restera possesseur de tout sera bien heureux, s'il n'est obligé de donner en intérêts que le revenue net de l'habitation. Or comme la premiere loi est celle de vivre, il commencera par vivre et ne pas payer. Ses dettes s'accumuleront. Bientôt il sera insolvable; et du désordre qui naitra de cette situation, on verra sortir la ruine de tous les cohéritiers. L'abolition de l'egalité des partages est la seul remede à ce désordre. Histoire Politique, tom. vi. p. 155, 156, 157. The author goes on to prove that the great load of debts due both within the French colonies, as well as to the mother country, which ruins all their establishments, is occasioned by the law of partition and subdivision of lands *ad infinitum* in successions.

credit wants every sort of supply and foundation. The rêtrait lignager and feodal makes a part of the French law, whereby the lord or next heir must be parties consenting to the sale of every estate, and to have a right of lods and ventes of resuming and pre-emption within a year, which right is a twelfth part of the purchase-money, and cannot be taken away without injury to the proprietor, the lord having taken a small rent (originally from his under-tenant) with a view to these fines of alienation to a stranger, which are the great profit of all seignories. So that if the lord had not this power of resuming, he might be defrauded by a sale for a less pretended sum than was actually paid. These subtilities introduced however into the forms, often defeat the lord and the heirs ; because the decisions of the courts of France, adapting their interpretation of the ancient existing laws to the wants and manners of the times, endeavour to sap all these obstacles, and to introduce by degrees, and by construction of law, an easy commutation of landed property, necessary in an age of commerce. If, therefore, the mode of tenure is to be changed, as it is proposed, some compensation ought to be given to the lord and heir, as in the case of extinguishing the heretable jurisdictions in Scotland. The leaving it in the power of a seigneur, at the age of majority, now made twenty-one by an ordinance, to change his tenure into common soccage, and descendible by the English or by some more convenient mode of inheritance adapted to the nature and cultivation of the lands in allotment, is an option to which no Canadian can have any objection.

Third Article. *A bill is proposed for the better raising and collecting his Majesty's revenue.*

On this subject it may be proper that cases touching the King's revenue, whether inward or outward, shall not be tried by juries. The facilities, the certainty and cheapness of collecting, and settling appeals concerning the land-tax in England, are an admirable example, how easily men may be reconciled to public burthens, if they are but complimented with the business of levying and judging of them themselves. As the supporting the province with all the necessary and executive parts of government depends upon raising an adequate revenue*; and as interested juries will always suffer to escape the persons of those who defraud it ; a British parliament, so used as it is to the modes of the revenue laws in England, may easily be brought to introduce into Canada, some of the same modes of taxation as in England. If a certain number of the principal land-holders of the Canadian seigneurs were to be appointed, together with his Majesty's governor and judges, to be commissioners, with the title of tres illustres, or right honourable, to hear and determine finally all matters and causes touching the receipt and collection of all taxes and inland duties raised,

*L'administration des finances ne percevoit au Canada que quelques foibles lods et ventes. Une legere contribution des habitants de Quebec et Montreal pour l'entretien des fortifications de ces places, des droits, mais trop forts, sur l'entrée, sur la sortie des denrées et des marchandises; tous ces objets ne produisoient au fix en 1747 qu'un revenu de deux cens soixante mille deux cens livres. Histoire Politique, tom. vi. p. 143.

or to be raised, fines of seigniories, and other dues of his Majesty's seignioral rights (concerning which difficulties have been made) and revenue of what nature or kind soever, it would, together with a competent salary, be a flattering circumstance to the Canadian landed gentry who should have these commissions, and would serve effectually to prevent evasions of the revenue laws of any sort, now or hereafter, on the part of the commercial inhabitants, chiefly English, and who are the people most tempted to evade them. But this regulation should by no means extend to take away from the admiralty court its jurisdiction concerning duties and forfeitures, under the acts of trade ; but that the officers of the crown may sue there as usual, and as they shall judge proper : but with a special clause, that in all cases where, by the acts of trade, his Majesty is intitled to any part of the forfeiture, all such causes shall be carried on, both in the first and second instance, in the name of his Majesty's advocate-general, in order to prevent collusive desertion of the cause, or appeal, on one side, or unjust harassing of the subject on the other. This will be agreeable to the practice in England, where all such causes are carried on in the court of Exchequer, in the name of his Majesty's attorney-general, by act of parliament.

Under the articles of revenue, the proposition of colonel Carlton, Appendix, No. 12. seems very proper to be established. That all vessels coming up the river shall be obliged to enter at Quebec, and shall not break bulk at any place before they arrive there.

The proposed duty upon rum will also deserve the consideration of government ; and it is understood, that there is already some bill prepared upon this head, and now under consideration of the board of treasury.

There are very able informations on the subject of duties in this province, in a private paper of Mr. attorney-general Mazeres.

As it appears that your Majesty's governors have omitted to require the oaths of fealty and homage, legal doubts have been started, whether the fines to the crown, upon the alienation of lands, and other seignioral rights, are due till such fealty and homage have been done : it should therefore make a part of the bill touching the revenue, that all dues heretofore paid to the French king, whether arising out of lands, or under any other denomination whatsoever, are payable and to be paid to your Majesty, your heirs, and successors, unless your Majesty shall, of your royal grace and favour, remit the same for the greater encouragement of your new subjects.

The seigneur-paramount has what is called the quint. To the seigneurs, the fines are a twelfth part of the real purchase-money bona fide paid ; and if the vendor pays it immediately, two thirds of a twelfth only are taken, which are equivalent to an eighteenth of the whole purchase-money. The fluctuation of property has been so great since the conquest, that the fines of alienation have been very beneficial to the lords, and consequently there must be considerable sums due to your Majesty on the same account.

Fourth article. *A bill is proposed for giving leave to your Majesty's Roman catholic subjects in the said colony, to profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit, which are already in force, and antecedent to the definitive treaty of peace, concluded at Paris, 10th February 1763, and for the better maintenance of the clergy of the church of England already established in the said colony.*

The treaty gives the superiority to the laws of England: it understands them all to be introduced into the colony ipso facto. The treaty stipulates clearly that the laws shall not be *changed* in this article with your Majesty's assent, and by the national legislation, but shall stand as they did stand, as the law of the realm in being at the instant of the contracting.

It is then the question, how far the laws of England affect the case of the Romish religion? In England very much: if executed; in the colonies settled by ourselves, no notice has been taken of it: so some penal laws, in other cases of trading property and revenue, have been very lightly enforced there formerly, even when the colonies have been expressly mentioned. But if the penalties of the law are not felt by the professors of the Romish religion in England, it is by connivance from humanity or policy, not to weaken or depopulate, that the laws are suspended but not abrogated.

The first thing that strikes upon this head, is an opinion, that the penal statute laws of England, in relation to religion, do not extend to the other British colonies, and so it seems to be agreed by many; and that the Roman catholic worship and profession of it therefore, sub modo, and in a certain way, may be permitted, or rather connived at in them, without breach of the fundamental laws of England, under restrictions.

If the exercise of the power of the papal see cannot be permitted in the ancient colonies of the crown by existing law, it is clear that it cannot be permitted in a new acquired colony, when the ceded colony is put by the treaty on the same footing with the ancient colonies, by leaving it to the laws of the realm.

With regard to Canada, in the fourth article of the treaty it is declared, *that his Britannic Majesty shall give the most effectual orders that his new Roman catholic subjects may profess the worship of their religion, according to the rites of the Romish church, as far as the laws of Great Britain permit.* I state the article in the French language, for the greater clearness and precision in arguing upon it. *Sa Majesté Britannique convient d'accorder aux habitants de Canada la liberté de la religion catholique, en consequence elle donera les ordres le plus precis et les plus effectifs pour que ses nouveaux sujets catholiques puissent* professer le culte *de leur religion selon* le rit *de l'Eglise Romaine,* en tant que *le permettent les loix de la Grande Bretagne.* By these terms it appears, that not the profession of the doctrines, but the profession of the exercise of external ceremonies is only stipulated for: and the article is very equivocal, whether that profession is to be public or private; for the word

profession may be insisted upon either way: and as for the degree, the article is *en tant que, as far as*, and in *such degree as the laws of Great Britain permit* at the instant of contracting. *Les loix de la Grande Bretagne* is a general term, and these words being in the plural number, and the verb *permettent* in the *present* tense, must mean consistently with the general system of laws of Great Britain, now existing in their totality ; any of which, tacit or written, may operate with regard to this subject. The treaty considers the toleration as limitable in the degree and manner of it accordingly.

The makers of the treaty of Versailles, seem to have had in their eye the eleventh article of the treaty of Utrecht, respecting the cession of Minorca to the crown of Great Britain. In the capitulation of Minorca, there was no article respecting laws or religion ; because general Stanhope took possession in the name of the archduke, as King of Spain. *Spondet insuper regia sua Majestas Magnæ Britanniæ sese facturum ut incolæ omnes insulæ praefatæ tam ecclasiastici quam seculares bonis suis universis et honoribis tuto pacatèque fruantur atque religionis Romanæ catholicæ liber* usus *iis permittatur, utque etiam ejusmodi rationes ineantur ad tuendam religionem praedictam in eadem insulâ, quæ à gubernatione civili atque a legibus Magnæ Britanniæ paenitus abhorrere non videantur. Moreover, her Britannic Majesty engages, that all the inhabitants of the said island, as well ecclesiastics as laity, shall enjoy, in quiet and safety, their properties and honours, and that the* free use *of the Roman catholic religion shall be allowed them; so that measures of such sort shall be entered upon for the protecting the said religion in the said island, which measures shall not appear to be absolutely inconsistent with the civil government, and the constitution of England.* Here the *use* clearly relates to the use of ceremonies. The fact is, the inhabitants of Minorca enjoy their religion, and their church government, which is something more, as effectually as if they remained under the crown of Spain ; and the course of appeal lies, from the bishop of Majorca, who has the ecclesiastical jurisdiction as bishop of Minorca, although a subject of Spain, to the Pope himself. This suspense of the law of England, with respect to the people of Minorca, however does not alter it.

Now I conceive that the laws and constitution of this kingdom permit perfect freedom of the exercise of any religious worship in the colonies, but not all sorts of doctrines, nor the maintenance of any foreign authority, civil or ecclesiastical, which doctrines and authority may affect the supremacy of the crown, or safety of your Majesty and the realm : for a very great and necessary distinction, as it appears to me, must be taken between the profession of the worship of the Romish religion, according to the rites of it, and its principles of church government. To use the French word, *the culte*, or forms of worship or rituals, are totally distinct from some of its doctrines ; the first can, may, and ought, in my humble opinion, in good policy and justice to be tolerated ; the second cannot be tolerated.

The twenty-seventh article of the capitulation for the surrender of Montreal, and the whole province of Canada, which is *on the demanding part*

of the Canadians, best explains their own meaning and that of the treaty ; the words are, *Demanded, that the free exercise of the Roman catholic religion shall subsist entire,* in such manner, *that all the people shall continue to assemble in churches, and to frequent the sacraments as heretofore, without being molested in any manner, directly or indirectly.*[1] And so far (taking this to be the true sense of the treaty demonstrated by those who are to have the benefit of it, agreeably to their petition) I think a British act of parliament may go in terms for the toleration of the form of worship, in manner and degree, without breach of the fundamental laws of the constitution ; and it is a sufficient answer to all the world, to say, the contracting parties have the stipulation executed in the manner exactly as demanded, and no other.

But in a question of this kind, before it can be said that the whole system of the church of Rome, not only of its ceremonies, but of its doctrines, can be tolerated by the laws of England, antecedent to the conquest and treaty, which refers back to them, it must be considered what the system of the Romish church actually is ; not only *as controuled in France by the sovereign and civil power, but as the great political system of the court of Rome with all its pretensions.*

With respect to the ritual, it is calculated for the eyes and the ears of an ignorant multitude, and not for the head or the heart, while it is in an unknown tongue. Yet such as it is, there is no great political consequential evil can follow from this culte, or mode of worship, being suffered to remain among such a people. It is innocent enough ; and it would be cruel as well as unjust, to deprive them of the pleasure and comfort of religious rites in their accustomed way.

The exercise of the Romish worship being therefore politically fit to be tolerated in Canada, the question is, is it equally fit to tolerate all the doctrines of the Romish church, or the ecclesiastical establishments, and powers for the support of the doctrines ?

To this I answer no : and for this plain reason, because the Romish religion itself (of which the conduct of France in many instances in history, with respect to conquered places, affords sufficient example) *will neither tolerate nor be tolerated.* In some of the articles of its system, on the presumption of its being the dominant system among the several states of Europe professing Christianity, it will give no quarter, and therefore it cannot take it without the destruction of the giver.

In order to judge politically of the expediency of suffering the Romish religion to remain *an established religion of the state* in any part of your Majesty's dominions, the Romish religion (I mean its doctrines, not its ceremonies) ought to be perfectly understood.[2] * * * * *

[1] See Articles of Capitulation, Montreal, p. 15 & 30.
[2] The remainder of this report, as explained in note 1, p. 445, is omitted.

CRAMAHÉ TO DARTMOUTH.[1]

QUEBEC 22d June 1773.

MY LORD ! Your Lordship is pleased to mention in your Dispatch No. 4.,[2] that the Civil Constitution and other necessary Arrangements for this Province were under the Consideration of His Majesty's Privy Council ; I most sincerely wish for the Good of the King's Service, and the Happiness of the People, that Matter may be soon brought to a final Conclusion—

It has ever been my Opinion, I own, that the only sure and effectual Method, of gaining the affections of His Majesty's Canadian Subjects to His Royal Person and Government, was, to grant them all possible Freedom and Indulgence in the Exercise of their Religion, to which they are exceedingly attached, and that any Restraint laid upon them in Regard to this, would only retard, instead of advancing, a Change of their Ideas respecting religious Matters ; by Degrees the old Priests drop off, and a few years will furnish the Province with a Clergy entirely Canadian ; this could not be effected without some Person here exercising Episcopal Functions, and the Allowance of a Coadjutor will prevent the Bishop's being obliged to cross the Seas for Consecration and holding Personal Communication with those, who may not possess the most friendly Dispositions for the British Interests—

I am happy in the Approbation my Conduct in regard to the Franciscan Friar has received, and the manner, in which Your Lordship is pleased to express yourself on the Occasion, calls for my very sincere and hearty Thanks—[3]

I have the Honor to be with the greatest Respect
My Lord !
Your Lordship's
Most Obedient and
Most Humble Servant
H. T. CRAMAHÉ

Earl of Dartmouth
One of His Majesty's Principal Secretaries of State.

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[1] Canadian Archives, Q 9, p. 51. William Earl of Dartmouth succeeded Lord Hillsborough as Secretary of State for the Colonies in August 1772. According to the official entry, "The Earl of Hillsborough Resigned the Seals on the 13th Augt: 1772 and the Earl of Dartmouth Received the Seals the following Day." Q 12 A, p. 105. He retained the office till the beginning of 1776. This was the Lord Dartmouth who formed the famous collection of Mss. known as "The Dartmouth Papers," in which many important documents relating to the American colonies, including Canada, are preserved, and from which several important papers in the present volume are copied.

[2] Referring to Dartmouth's despatch of Dec. 9th, 1772. See Canadian Archives, Q 8, p. 220.

[3] Referring to Cramahé's action in the case of an Irish Franciscan friar who came to Quebec from the island of St. Johns (Prince Edward Island) seeking employment which Cramahé refused; but paid his passage to Europe. See Cramahé to Dartmouth, Nov. 11th, 1772; Q 9, p. 4. Also Dartmouth's approval, Q 9, p. 7.

SESSIONAL PAPER No 18

DARTMOUTH TO CRAMAHÉ.[1]

WHITEHALL December 1st 1773.

LIEUT-GOVR. CRAMAHÉ,

SIR,

Your Dispatches numbered from 4 to 10 inclusive have been receiv'd and laid before The King, and I have the Satisfaction to Acquaint you that the Affairs of Canada & the arrangements necessary for the adjustment of whatever regards the Civil Government of the Colony are now actually under the immediate Consideration of His Majesty's Servants, and will probably be settled in a very short Time.

You may be assured that I will not fail in this Consideration to urge the Justice and Expediency of giving all possible Satisfaction to the new Subjects on the Head of Religion ; and to endeavour that the Arrangements with regard to that Important part of their Interests be established on such a Foundation that all Foreign Jurisdiction be excluded, and that those professing the Religion of the Church of Rome, may find within the Colony a resource for every thing essential to the free Exercise of it, in the true Spirit of the Treaty.

The Limits of the Colony will also in my Judgement make a necessary part of this very extensive Consideration.

There is no longer any Hope of perfecting that plan of Policy in respect to the interior Country, which was in Contemplation when the Proclamation of 1763 was issued ;[2] many Circumstances with regard to the Inhabitancy of parts of that Country were then unknown, and there are a Variety of other Considerations that do, at least in my Judgement, induce a doubt both of the Justice and Propriety of restraining the Colony to the narrow Limits prescribed in that Proclamation.

His Majesty's Subjects therefore may with confidence expect that an Attention will be shewn to their wishes in this respect, and such Attention is more particularly due to them from the great Candour & Propriety of their Proceedings upon the Application from Governor Tryon for continuing the Line of 45 from Lake Champlain to the River St. Lawrence.[3]

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[1] Canadian Archives, Q 9, p. 157.

[2] The reasons for this plan are given in the Report of the Lords of Trade to the King in Council, Aug. 5th, 1763. See p. 150. The same subject was discussed in 1767, with reference to the reasonable claims of all the American Colonies to the unorganized territory in their rear. See Shelburne to Lords of Trade Oct. 5th, 1767. Calendar of Home Office Papers, 1766-69, No. 568.

[3] Referring to the proceedings as recorded in the Minutes of Council at Quebec, with reference to the proposals received from Governor Tryon of New York to complete the boundary line. See Minutes of Council, 8th, Feb. and 22nd Feb., 1771; Q 8, p. 41 & 46. See also, correspondence and proceedings of Council; Q 9, pp. 91, 96 & 106a. The agreement subsequently reached between Sir Henry Moore, successor to Governor Tryon, and the Commander in Chief of Quebec, fixed the boundary at latitude 45, as laid down in the Proclamation of 1763. This agreement was ratified by the King in Council.

The Ordinance providing for the Administration of Justice in Mr. Hey's absence,[1] appears in the general view of it, to be conformable to what was wished on that head, but I shall avoid entering into any particular consideration of it until Mr. Hey's Arrival.

I am to presume that nothing was left undone that could be effected to bring Mo[r] Ramsay to that Punishment his atrocious Crime deserved,[2] and I lament his Escape the more from the account I have received from Sir William Johnson of other murthers committed near Niagara, and particularly of the Murther of Four Canadian Traders by some Seneca Indians.

Your Conduct in regard to the Complaints of the Indians of Sault St. Louis and the Lake of the Two Mountains,[3] and your Humanity in assisting them in their Distress, are very much approved by the King, who wishes that every step may be taken with regard both to his new Subjects and to the Savages in connection with them, that may have the effect to attach them more closely to the British Interests.

Mo[r]. Baby. . .one of His Majesty's new subjects lately arrived here from Canada, has delivered me a Letter from them, inclosing a Petition to The King on the subject of their present precarious situation: This Petition has been presented to His Majesty, and most graciously received, and is ordered by His Majesty to be referred to the Consideration of His Majesty's Confidential Servants, together with the other Papers relative to the State of that Colony.

I am &c[a]

DARTMOUTH

MASERES TO DARTMOUTH.[4]

INNER TEMPLE. Jan. 4, 1774.

MY LORD, I herewith send your Lordship some papers which I have received within these few days from Quebeck, containing an account of the proceedings of the principal English inhabitants of the town of Quebeck concerning a petition they have presented to the Lieutenant-Governour

[1] In a letter to Lt. Governor Cramahé, April 10th, 1773, Dartmouth enclosed "a Sign Manual of His Majesty" permitting Chief Justice Hey to return to Britain, on account of his health and indicating that, should he avail himself of the privilege, the Lt. Gov. might pass a temporary ordinance to provide for the discharge of his duties by a commission. See Q 9, p. 15, also p. 70. This was accomplished by an ordinance entitled, "An Ordinance, For establishing a Court of Appeals during the absence of the present Chief Justice, and for Ascertaining the Powers of the Commissioners for Executing the Office of Chief Justice." Q 9, p. 111.

[2] Ramsay was accused of the murder of an Indian near Niagara and his trial was appointed for Sept. 1773: See Q 9, p. 34. Cramahé subsequently reports that he was acquitted for lack of evidence and that his acquittal had a bad effect upon the Indians. He refers also to the murder of Canadians by the Senecas: See Q 9, p. 106.

[3] The Indians of Sault St. Louis and Lake of Two Mountains complained of the unsettled boundaries of their reserves, and also of the rum traffic. See Cramahé to Dartmouth, Q 9, p. 34.

[4] Canadian Archives, Q 10, pp. 8-16. The documents which follow, with such variations as are noted, are given also in Maseres' "An Account of the Proceedings of the British, And other Protestant Inhabitants, of the Province of Quebeck, in North America, In order to obtain An House of Assembly In that Province." London; MDCCLXXV. pp. 4-10. This letter to Dartmouth, however, which introduces the account of the proceedings, and which explains Maseres' own attitude towards the proposal for an Assembly, is not given in that volume.

and Council for a General assembly of the free-holders of that province.[1] They intend upon the Lieutenant-Governour's refusal of their petition (which they expect,) to present it to his Majesty in Council. They have accompanied these papers with a civil letter to me, in which they declare they believe me to have the welfare of that province much at heart ; which is indeed most true. I have sent your Lordship a copy of that letter;[2] but can assure your Lordship that I have had no hand (be it a right measure or a wrong one,) in exhorting them to make this application for an assembly, and did not in the least know that they intended it till I received these papers. I told Mr. Thomas Walker and Mr. Macaulay, two of the Committee for preparing this petition, when I saw them last Winter in London, that I thought that a legislative council, consisting only of protestants, and much more numerous than the present, and made perfectly independent of the Governour, so as to be neither removeable nor suspendible by him upon any pretence, but only removeable by the king in Council, would be a better instrument of government for that province than an assembly, for seven or eight years to come, and until the protestant religion and English manners, laws and affections shall have made a little more progress there, and especially than an assembly into which any Catholicks should be admitted. But as they have desired me to communicate this account of their proceedings to your Lordship, I have therefore sent them to you. I am almost well of the hurt in my leg which I received on the 10th of November, and which has confined me to my room almost ever since : and can now go out in a coach or chair, though I cannot walk yet : and therefore am ready to wait upon your Lordship whenever you may think that my attending you may be of any service in the business of the province of Quebeck, which I hear is now in hand. Your Lordship may command anything that I can do further towards promoting so good a work.

I remain, with great respect,
Your Lordship's most Obedient
and humble servant
(Original) FRANCIS MASERES.

Endorsed :—To
The Right Honble the Earl of Dartmouth,
in Charles Street, near St. James's Square.

At a meeting of the British Inhabitants of the province of Quebec at the house of Miles Prenties Innholder in upper Town—Quebec 30th October 1773—being Saturday.

Mr. John McCord on holding up hands was chosen president.

The first question, Whether it is not expedient to petition for a house of Assembly.

Answer—Yeas 38—to 3 nays.

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[1] See the letter from Cramahé to Dartmouth which accompanies these petitions, p. 491.
[2] See below, p. 490.

Resolved That a Committee of eleven be appointed and that seven of said number may be esteemed a full Committee (in case any of the Gentlemen named should be sick or out of Town) to draw up a Petition and lay it before another general meeting. And the following Gentlemen were accordingly regularly voted to form the said Committee viz—

William Grant	Jenkin Williams
John Wells	Thomas Walker
Charles Grant	John Lees
Malcolm Fraser	Zachary Macaulay
Anthony Vialars	John McCord
Peter Fargues	

The Committee then appointed to meet at Mr. Prenties's on Tuesday next at four o'Clock in the afternoon.

Malcolm Fraser was chosen Secretary to the Committee.

Resolved That a Copy of these Minutes be sent by the Committee to the Gentlemen of Montreal.

2 Novr 1773 At Prenties's

A Majority of the Committee having accordingly met vizt.

Thomas Walker	William Grant
Charles Grant	Jenkin Williams
John Lees	Zachary Macaulay
John McCord	Malcolm Fraser

The Committee judging it to be regular first to present a Petition to the Lieut. Governor in Council and not in the first Instance to the King have Resolved That a Petition be addressed and presented to the Lieut. Governor in Council and a Draft of such Petition having been accordingly framed—

It was further resolved That it be translated into French and that some of the principal French Inhabitants be requested to meet the Committee at four o'Clock on Thursday Evening next at Prenties's.

Resolved that a Copy of the above proceedings with a Copy of the Petition above mentioned be transmitted to Montreal by next post and addressed to Mr. Gray to be communicated to the Inhabitants of Montreal.

Copy of a Letter of Invitation sent to the Canadian Gentlemen dated 2 Novr 1773.[1]

Messieurs—Les Affaires et la Situation actuelle de La Province ayant besoin que ses habitants y portent quelque attention Et nous sousignés ayant été nommés par une nombreuse assemblee des anciens sujets de sa Majesté comme un corps de Committé pour faire quelque chose a cet egard—Nous vous invitons de nous rencontrer au Taverne de Prenties Jeudi a

[1] In the mss. copy this letter is placed after the entry of Nov. 8th, but in Maseres' "An Account of the Proceedings" &c. it is placed in the chronological order which is here adopted.

quatre heures apres midi afin de vous communiquer nos idees et de scavoir les votres sur des matieres qui nous interessent egalement. Nous avons l'honneur d'etre &c.

N.B. This Letter was signed by the whole eleven members of the Committee and addressed To Messieurs De La Naudiere—De Rigauville, De Lery, Cugnet—Perault—Duchenay, Decheneaux—Tacherau—Compte du pres—Frémont—Perras—Marcoux—Berthelot & Dufau of Quebec and to Monsr Tonnancourt of Trois Rivieres then at Quebec.

4. Novr 1773 At Prenties's

The following members of the Committee having met Vizt.

Jenkin Williams	William Grant
Charles Grant	John McCord
John Lees	Malcolm Fraser
Zachary Macaulay	Thomas Walker
John Wells	

And the following French Gentlemen having attended this meeting in consequence of the Invitation sent them viz.

Monsieur Decheneaux	Monsr. Tonnancourt
– – Marcoux	– – Perras
– – Cugnet	– – Berthelot
– – Perrault	– – Compte du prés

Mr William Grant was chosen Chairman of the Committee, and a Translation into French of the Petition intended to be presented to the Lieut Governor being read, The Opinion of the French Gentlemen present was required as to the measure under consideration and after some conversation on the Subject The Question being put—

Whether they think it necessary (from what has been debated) to conveen their fellow Citizens.

It was unanimously voted in the affirmative Mr. Decheneaux & Mr. Perras have undertaken to conveen the new Subjects at two o'Clock on Saturday next

The Committee to meet on Monday next at Prenties's at six o'Clock in the Evening

8' Novr 1773.

The following Gentlemen met at Prenties's

Mr. Williams	Mr. Walker
Mr. Wm Grant	Mr. McCord
Mr. Lees	Mr. Wells
Mr. Fraser	

It was resolved to write a Letter to Mr. Decheneaux to beg he would let the Committee know if the New Subjects had taken any measures in consequence of what was communicated to them at last meeting? and

what these measures were. But Mr. Dechenaux being out of Town the Letter was sent to Mr. Perras who returned the Answer annexed.

Resolved that a Letter be sent by the Committee to Francis Maseres Esq[r] inclosing the above Minutes with a Draft of the Petition.—

The Committee to meet when Summoned by the Secretary as the business will depend on the Letters to be received from Montreal.—

Copy of the letter wrote to Mr. Perras 8[th] Nov[r] 1773.

Mons[r] Les Messieurs du Committé assemblé chez Prenties vous prie d'avoir la bonté de les informer si les nouveaux sujets ont pris quelques mesures sur ce que vous a ete communiqué Jeudi dernier et si vous pouvez leurs faire part de Resolutions prises par vos concitoyens vous obligerez beaucoup ces Messieurs—On attend L'honneur de votre reponse par le porteur et J'ai l'honneur d'etre

Mons[r]

Votre très humble Serviteur

signé MALCOLM FFRASER

Follows Mr. Perra's answer

QUEBEC le 8—9[bre] 1773

MONSR. Le Depart precipitè de vaisseaux pour L'Europe ne m'a pas permis de repondre suivant mes desirs aux attentions de Messieurs du Committè, cependant j'ai vu quelques uns de mes citoyens qui ne me paroissent pas disposer a S'assembler comme quelques uns d'entre nous le voudroient. Le grand nombre l'emporte et le petit reduit a prendre patience—

J'ai l'honneur d'etre &c

A true copy

MALCOLM FFRASER

Secretary to the Committee.

LETTER OF THE COMMITTEE TO MASERES.[1]

QUEBEC 8[th] Nov[r] 1773.

SIR As you appear to have the true Interests of this Country at heart, We take the liberty to trouble you with the Draught of a Petition which the English Inhabitants of the Province have determined to present to the Governor & Council. It is now the general opinion of the people (French & English) that an Assembly would be of the utmost advantage to the Colony, tho' they cannot agree as to the Constitution of it. The British Inhabitants of whom we are appointed a Committee are of very moderate principles. They wish for an Assembly; as they know that to be the only sure means of conciliating the New Subjects to the British Government as well as of promoting the Interests of the Colony and securing to its Inhabitants the peaceable possession of their rights and propertys. They

[1] Canadian Archives, Q 10, p. 20-21.

would not presume to dictate. How the Assembly is to be composed is a matter of the most serious consideration : They Submit that to the Wisdom of his Majesty's Councils. What they would, in the mean time, request you to do is to inform the Ministry and the Publick That a Petition is presented (for it will be so in a few days) to the Governor here to call an Assembly, And that if he does not grant their request they will immediately apply to His Majesty from whom they have the most sanguine hopes of a gracious Reception. They beg your Interest in promoting so laudable an Undertaking and hope you will excuse the liberty they have taken

We are with Esteem Sir

Your most obedient & most humble Servants

William Grant	Zach. Macaulay
Jenkin Williams	Chas. Grant
Thomas Walker	John Lees
John Welles	Malcolm ffraser
John McCord	

To Francis Maseres Esqr.

CRAMAHÉ TO DARTMOUTH.[1]

QUEBEC 13th December 1773.

MY LORD !

Herewith inclosed, I transmit to Your Lordship, Copies of two Petitions, signed by some of His Majesty's old Subjects residing here and at Montreal, presented me the 4th instant, and of my Answer to them dated the 11th.

About six Weeks or two Months ago, a Mr. McCord, from the North of Ireland, who settled here soon after the Conquest, where he has picked up a very comfortable Livelihood by the retailing Business, in which he is a considerable Dealer, the Article of Spirituous Liquors especially, summoned the Principal Inhabitants of this Town, that are Protestants, to meet at a Tavern, where He proposed to them applying for a House of Assembly, and appointing a Committee of eleven to consider of the Method of making this Application, and to prepare and digest the Matter for them.

This Committee, of which Mr. McCord takes the lead, has had several meetings and fixed at last upon the Course they have now taken, of Petitioning, the Lieutenant Governor in Council, and in case of a Refusal there, to Memorial His Majesty; The Committee having previously wrote to and engaged some of their Fellow Subjects at Montreal to second them in their Applications.

Mr McCord endeavoured all this Summer, and again since the appointment of the Committee, to persuade the Canadians to join the old Subjects in petitioning for an Assembly, used every Argument he could think of for that Purpose, and carried the first Draft set on Foot for it to a Canadian

[1] Canadian Archives, Q 10, p. 22.

Gentleman of this Town to translate into French ; The Canadians suspecting their only View was to push them forward to ask, without really intending their Participation of the Privilege, declined joining them here or at Montreal, but in the agitation they were thrown into by all this Negotiation, as well as Mr Masere's Publications,[1] circulated here with great Industry, they thought themselves obliged to do something, tho' they could not well tell how, and this produced the Petitions already sent Home.

It may not be amiss to observe, that there are not above five among the signers to the two Petitions, who can be properly stiled Freeholders, and the Value of four of these Freeholds is very inconsiderable. The Number of those possessing Houses in the Towns of Quebec and Montreal, or Farms in the Country, held of The King or some private Seigneur, upon paying a yearly Acknowledgment, is under thirty.

In my Answer[2] I carefully avoided entering into any Discussion upon the Subject of their Petition, or taking notice of the Irregularity of their conduct, to endeavour to preserve them in good Temper, and to prevent them presenting their Requests through any other then the proper Channel, was the measure that appeared to me most eligible for the King's Service ; I have therefore promised them, to forward to Your Lordship, the Memorial they intend presenting to His Majesty ; when that is executed, and they are a little cooled, they will be more ready to attend to any Thing I may take Occasion to offer upon the Matter in private.

The whole of this Transaction sufficiently evinces how necessary it is to give Power and Activity to the Government of this Province; the Canadians are tractable and submissive, but if Matters were to remain here much longer in the loose Way they are in at present, there is too much Reason to apprehend, that it might be attended with bad Effects ; A Confirmation of their Laws of Property, and Rights of Inheritance, after which they most ardently sigh, would be most satisfactory to them all, and prove a very great Means of attaching the Canadians effectually to His Majesty's Royal Person and Government—

I have the Honor to be
with the greatest Respect
My Lord !
Your Lordship's
Most Obedient and
Most Humble Servant

H. T. CRAMAHÉ

Earl of Dartmouth
One of His Majesty's Principal
Secretaries of State.

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[1] Of these the first and last published, prior to this date, have already been given in this volume; see p. 257, and p. 327. Of the several other papers dealing with the laws and constitution of the Province of Quebec published before this date, some were reproduced in later volumes, especially in "An Account of the Proceedings" &c., others remained in their original form of issue, as the "Draught of an Act of Parliament for settling the Laws of the Province of Quebec," 1772.

[2] See below, p. 495.

SESSIONAL PAPER No. 18

PETITION TO LT. GOVERNOR FOR AN ASSEMBLY.[1]

To the Honourable Hector Theophilus Cramahé, Esquire, His Majesty's Lieutenant Governor and Commander in Chief of the Province of Quebec, in Council.

The Petition of the Subscribers his Majesty's Antient Subjects the Freeholders, Merchants, Traders, and other Inhabitants of the said Province.

Humbly Sheweth,

That Whereas his Most Excellent Majesty by his Royal Proclamation bearing date at St. James's the Seventh day of October 1763 (out of his Paternal Care for the Security of the Liberty and propertys of those who then were, or should thereafter become Inhabitants of the four several Governments therein mentioned) Did publish and declare, that he had, in his Letters Patent, under his Great Seal of Great Britain, by which the said Governments were constituted ; been graciously pleased to give express power and Direction to his Governors, that so soon as the State and Circumstances of those Governments would admit thereof : They should with the Advice and Consent of the Members of his Councils, Summon and Call General Assemblys within the said Governments, And that he had been graciously pleased to give power to his said Governors with the consent of the said Councils and the Representatives of the People to make, constitute, and Ordain, Laws, Statutes & Ordinances for the publick peace, welfare and good Government of those Provinces and of the People and Inhabitants thereof. And Whereas his most Excellent Majesty in pursuance of his said Royal Proclamation, by his Letters Patent to his Governors has been graciously pleased to give and grant unto them full power and Authority with the Advice and Consent of his said Councils, under the Circumstances aforesaid, to call General Assemblys of the Freeholders and Planters within their respective Governments. And also Whereas your Petitioners (who have well considered the present state and Condition of this Province) do humbly conceive That a General Assembly of the People would very much Contribute to its peace, Welfare and good Government as well as to the Improvement of its Agriculture and the Extension of its Trade and Navigation ; They do therefore most humbly pray your Honor (with the Advice and Consent of His Majesty's Council) to Summon and call a General Assembly of the Freeholders and Planters within Your Government in such Manner as you in your discretion shall judge most proper.

QUEBEC 29th November 1773.

Alexr Fraser	Jenkin Williams	Richd Murray
Simon Fraser	William Grant	Randle Meredith
Adam Lymburner	John McCord	Robt. Willcocks
Alexr Davison	P. Fargues	J. Melvin

[1] Canadian Archives, Q 10, p. 26. Given also in "An Account of the Proceedings" &c., p. 11.

Murdoch Stuart	Chas Grant	R. Hope
Daniel Morison	Malcolm ffraser	Henry Boone
Saml Jacobs	Zach. Macaulay	John W. Swift
John Lees Junr.	John Welles	Charles Hay
Jams Price	John Lees	Charles Le Marchant
Robt. Woolsey	James Tod	Thos McCord
Jacob Rowe	Jas Cuming	Jas Sinclair
John Renaud	Alexr Martin	Pr Mills
Michl Cornud	D. Lynd	John Halsted
Simon Fraser Junr	John Lynd	Lauch Smith
Jas Hanna	Dl Gallwey	James Gordon
Jonas Clark Minot	Dunn Munro	Ra. Gray
N. Bayard	Geo. King.	
John D. Mercier		

I do certify that the foregoing Petition is a true copy of the Original filed in my Office.

Quebec 16 December
1773.
Geo. Allsopp. D.C.C.

Endorsed:—Copy of the Quebec Petition presented 4th Decr 1773 In Lieut. Govr Cramahé's (No. 11) of 13th December 1773.

The Montreal Petition the same as the preceding—with the following Signatures[1]— Montreal 29th Novemr 1773.

Edward Chinn	Alexr Paterson	Levy Solomons
John Thompson	James McGill	Alexr. Henry
Edwd Antill	James Dyer White	Ezekiel Solomons
R. Huntley	Lawrence Ermatinger	Richd Dobie
Danl Robertson	William Haywood	John Lilly
John Blake	James Finlay	Edwd Wm Gray
John Neagle	Wm McCarty	Thomas McMurray
Richd McNeall	Joseph Torrey	James Morrison
John Burke	Alexr Henry	Geo. Measam
Thomas Walker	Jas Bindon	J. Maurez
John Cape	Alexander Hay	Thomas Walker Junr.
Sam. Holmes	Joseph Howard	John Wharton
Jn Dumoulin	Geo. Singleton	Jacob Vander Heyden.

I do certify that the foregoing Petition is a true Copy of the Original filed in my Office. Quebec 16 December 1773.

GEO. ALLSOPP D.C.C.

Endorsed:—Copy of the Montreal Petition—presented 4th Decr. 1773.
In Lieut. Govr Cramahé's (No 11.) of 13th December 1773.

[1] In Maseres' "An Account of the Proceedings" &c., no mention is made of there being two petitions, and no distinction is made between the Montreal and Quebec lists of names, which are mingled together in a common list. The date of presentation is given as Dec. 3rd, whereas in Allsopp's certified copy it is given as the 4th.

SESSIONAL PAPER No. 18

LT. GOVERNOR CRAMAHÉ'S REPLY.[1]

Gentlemen

The Subject of your Petition is a Matter of too much Importance, for His Majesty's Council here to advise, or me to determine, upon, at a Time, that, from the best Information, the Affairs of this Province are likely to become an Object of Public Regulation ; The Petitions and my Answer shall be transmitted by the first Opportunity to His Majesty's Secretary of State.

(Signed) H. T. CRAMAHÉ

Quebec 11th Decr 1773.

PETITION TO THE KING.

To the Kings most excellent Majesty.[2]

The humble Petition of the Subscribers your Majesty's antient Subjects, Freeholders, Merchants and Planters in the Province of Quebec in North America.

Most humbly.

Sheweth.

That Whereas your Majesty by your royal Proclamation bearing Date at St. James's the seventh Day of October One thousand seven Hundred and Sixty Three was most graciously pleased to publish and declare "That "out of your Majesty's paternal Care for the Security of the Liberty and "Properties of those who then were or should thereafter become Inhabitants "of the four several Governments therein mentioned (of which this your "Majesty's Province was denominated to be one) Your Majesty had in the "Letters Patent by which the said Governments were constituted given express "power and Direction to your Governors, That so soon as the State and "Circumstances of those Governments would admit of it, they should with "the Advice of the Members of your Majesty's Councils, summon and call "General Assemblies within the said Governments respectively, in such "Manner and Form as is used and directed in those Colonies and Provinces "in America which are under Your Majesty's immediate Government. "And also that your Majesty had been graciously pleased to give Power "to your said Governors with the Consent of your Majesty's said Councils "and the Representatives of the People, so to be summoned as aforesaid,

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[1] This reply was framed and authorized by the Governor in Council, Dec. 11th, 1773. See Q 10, p. 38.

[2] The Lt. Governor having, as anticipated, declined to grant the petition for an Assembly, the Committees of Quebec and Montreal prepared their petition to the King, as given here. Canadian Archives, Q 10, p. 46. In the letter of Cramahé to Dartmouth, Jan. 19th, 1774, which accompanies this petition, he says that he suspects they have sent a duplicate of it to Maseres. Q 10, p. 43. The Committees evidently had some doubts as to their petitions to the King reaching their destination if presented through the official channels only, for, as Cramahé had suspected, they sent copies of these to Maseres, then in London, to be presented through the Colonial Secretary. They had also written to their mercantile associates in London to solicit their assistance in presenting their case before the proper authorities. This correspondence is given in Maseres' "An Account of the Proceedings" &c., p. 29.

"to make, constitute, and ordain Laws, Statutes and Ordinances, for the "peace, Welfare, and good Government of your Majesty's said Colonies, "and of the People and Inhabitants thereof, as near as might be agreeable "to the Laws of England, and under such Regulations and Restrictions "as are used in other Colonies."[1] And Whereas it has graciously pleased Your Majesty in the Letters Patent of Commission to your Captain General and Governor in Chief, (and in Case of his Death, or during his Absence, in the Letters Patent of Commission to your Majesty's Lieutenant Governor) of this Province, to give and grant unto him full power and Authority, with the Advice and Consent of your Majesty's Council, so soon as the Situation and Circumstances of this Province would admit of it, and when and as often as Need should require, to summon and call general Assemblies of the Freeholders, and Planters within this Government, in such Manner as he in his Discretion should judge most proper.[2] And Whereas Your Petitioners, whose Properties real and personal in this Province are become very considerable, having well considered its present State and Circumstances, and humbly conceiving them to be such as to admit the summoning and calling a general Assembly of the Freeholders, and Planters Did on the Third Day of December Instant present their humble Petition to the Honourable Hector Theophilus Cramahé Esquire your Majesty's Lieutenant Governor and now Commander in Chief, stating as above and humbly praying that he would be pleased, with the Advice and Consent of your Majesty's Council, to summon and call a general Assembly of the Freeholders and Planters within this Government, in such Manner and as he in his Discretion should judge most proper ; And your Majesty's said Lieutenant Governor on the Eleventh Day of December Instant after having taken the said Petition into his Consideration, was pleased to inform your Petitioners, "That the Subject of their said Petition, was a Matter of too "much Importance for your Majesty's Council here to advise, or for him "your said Lieutenant Governor to determine upon, at a Time, that, from "the best Information, the Affairs of this Province are likely to become an "Object of public Regulation; but that he would transmit the said Petition "by the first Opportunity to your Majesty's Secretary of State."[3]

Your Petitioners being fully convinced from their Residence in the Province, and their Experience in the Affairs of it, that a general Assembly would very much contribute to encourage and promote Industry, Agriculture and Commerce and (as they hope) to create Harmony and good Understanding between your Majesty's new and old Subjects Most humbly Supplicate your Majesty, to take the Premisses into your royal Consideration ; And to direct your Majesty's Governor, or Commander in Chief to

[1] As may be observed by comparing this passage with the letter of the Proclamation, (See p. 165. This is not the exact wording of the portion quoted, but simply a paraphrase of it.

[2] See the section of the Commission to Governor Murray, authorizing the establishment of an Assembly, p. 175.

[3] See above p. 495.

SESSIONAL PAPER No. 18

call a General Assembly in such Manner, and of such Constitution and Form as to your Majesty, in your Royal Wisdom, shall seem best adapted to secure its' Peace Welfare and good Government.

And your Petitioners as in Duty bound shall ever Pray &c.[1]
Quebec 31st December 1773.

Jenkin Williams	Chas Grant	Malcolm ffraser
John Welles	William Grant	John Lees
Randle Meredith	Zach: Macaulay	Alexr Martin
Alexr Davison	John McCord	Simon Fraser
John Lees Junr	Adam Lymburner	Henry Boone
N. Bayard	John Renaud	Charles Le Marchant
Pr Mills	Alexr. Fraser	John D. Mercier
John Halsted	Jonas Clarke Minot	Jacob Rowe
Jas Tod	Murdoch Stuart	Jas. Sinclair
Arthur Davidson	Mich. Cornud	George King
John Majer	Robt. Woolsey	Jacob Smith
J. Melvin	D. Gallway	John Lynd
Simon Fraser Junr	Thos McCord	Jas Hanna
Dunn Munro	John Ross	John White Swift
Wm Lindsay	John Burke	Ra. Grey
Davd Lynd	Francois Smith	Robt. Mcfie
William Laing	Rodk McLeod	Alexr Lawson
Wm Keith	Godfrey King	Frederick Petry
Charles Hay	John Saul	Francis Anderson
Dan. Morison	George Jinkins	Hugh Ritchie
		George Hips

(Original)
Endorsed:—In Lieut. Govr Cramahés (No. 13) of 19th Jany. 1774.

Montreal Petition the same as that of Quebec—with the following signatures—Montreal 10th January 1774

Danl Robertson	Edmd Wm Gray	Jean Etienne Waden
John Wharton	Richd Huntley	Hugh Farries
Dumas	Alexander Hay	John Sunderland
Samuel Morrison	John Lilly	Samuel Edge
George Singleton	John Porteous	Abm Holmes
Alexr Paterson	John Thomson	Saml Holmes
Chas Paterson	Richd Dobie	Richd Livingston
Peter Arnoldi	Richd Walker	James Noel
Edmd Antill	Geo. Measam	Jno Pullman
G. Christie	Philip Loch	Robt. Cruickshank

[1] In Maseres' "An Account of the Proceedings" &c., pp. 20-24, the petition is given as only from Montreal, dated Jan. 10th, though the list of names attached contains both the Quebec and Montreal signatures. Elsewhere, (see p. 27) it is stated that there were two petitions.

Chabrand Delisle Minister	William Weir	John Neagle
Pierre du Calvet J.P.	Edward Chinn	Peter Forbes
J. Grant	John Kay	Allan M^{c}Laclain
John Blake	W^{m} M^{c}Carty	Nicholas Brown
Jam^{s} Blake	Thomas M'Murray	John Trotter
Lawrence Ermatinger	Benj^{n} Frobisher	Philip Bruikman
James Dyer White	Joseph Bindon	Edw^{d} Cox
James Morrison	James McGill	Roger M^{c}Cormick
Jean Bernard	Jn^{o} Stenhouse	John Marteilhe
Rich^{d} M^{c}Neall	Alex^{r} Henry	James Stanley Goddard
Joseph Howard	Solomon Mittleberger	Peter Mcfarland
Jacob Vander Heyden	W^{m} Murray	Andrew Porteous
Ezekiel Solomon	Alex^{r} Henry	J^{n} Dumoulin
Levy Solomons	Jam^{s} Price	G. Young
Jas. Doig	Will^{m} Haywood	Thomas Duggan
Jas. Finlay	Jn^{o} Richardson	T. Duggan
John Gregory	John Jones	William Aird
Thomas Walker	Robert Simpson	J. S. Nicol major
Thomas Walker Junr.	James Fraser	Daniel M^{c}Killip

In Lieut. Gov^{r} Cramahé's (No 13) of 19th Jan^{y} 1774.

MEMORIAL FROM QUEBEC TO LORD DARTMOUTH.

To the Right Honb^{le} the Earl of Dartmouth one of his Majesty's principal Secretarys of State.[1]

The Memorial of the Freeholders, Merchants Planters and others his Majesty's antient and loyal Subjects now in the District of Quebec in the Province of Quebec in North America.

Humbly Sheweth.

That after the Capitulation of Canada and the definitive Treaty of Peace by which this Province was ceded to Great Britain his Majesty was graciously pleased by his royal Proclamation of the 7th October 1763, to give express power & direction to his Governors of the four several Provinces therein mentioned, (whereof this Province is one) with the advice and Consent of the Members of his Councils, to summon and call general Assembly's, for making constituting and ordaining Laws Statutes and Ordinances for the public peace, Wellfare and good Government thereof as near as might be agreeable to the Laws of England And also was graciously

[1] Canadian Archives, Q 10, p. 56. This memorial is not given in Maseres' "An Account of the Proceedings" &c. The briefer one from Montreal which follows this is given however. Nevertheless these memorials were evidently presented through Maseres, since they are not endorsed, as are the petitions to the King, as received through Cramahé. Moreover, in his letter to Dartmouth of Feb. 3rd., 1774 Cramahé indicates that they were not forwarded through him, since they were not communicated to him. See Q 10, p. 53.

pleased to declare and promise, That in the mean time and untill such Assemblys could be called all Persons inhabiting in or resorting to the said Colonies should have the enjoyment and benefit of the Laws of England.[1]

That your Memorialists thus encouraged, having settled themselves, purchased Lands, planted and improved them, and engaged deeply in Commerce in this Province, and humbly conceiving it at this Time seasonable & expedient to supplicate his Majesty to accomplish his most gracious Promise, Have prepared their most humble Petition to his Majesty[2] (which they take the liberty to transmitt herewith to Your Lordship) praying that he would be graciously pleased to order his Governor with the Advice and Consent of his Majesty's Council to call a general Assembly of the People in such manner and of such Constitution and form as his Majesty in his royal Wisdom shall think proper to direct.

Your Memorialists most humbly hope that his Majesty out of his royal and paternal Care for the Wellfare and happiness of all his loving & obedient Subjects will be graciously pleased to relieve them from the apprehensions they are under That their Property's may be endangered, And that they and their Posterity may lose the fruits of their labours by residing in a Country without any fixed or stable form of Government exposed to Ordinances which may be neither consonant with nor agreeable to the Laws of England, a Situation we presume equally inconvenient to the new as to us his Majesty's antient and loyal Subjects.

Your Lordships Memorialists are firmly but humbly of opinion that a power of Legislation vested in a Governor Council and Assembly of the People is the only permanent constitutional Mode of Government that should be established in this Province and from their own knowledge and Experience of its State since the Conquest, they are convinced that the sooner an Assembly is called, to act in conjunction with his Majesty's Governor and Council, the sooner, the Peace and good Government thereof will be settled on a firm and solid basis. No temporary Mode your Memorialists apprehend can so effectually attach and reconcile the new Subjects to His Majesty's august House and the British Constitution or be so grateful to his Majesty's antient subjects. Your Memorialists conscious of their own inability will not presume to point out how this Assembly should be composed and constituted. That is a matter in their opinion fitting only for the Wisdom and consideration of his Majesty and his learned Councils. But as it may be advanced by some Persons (who either are not so well acquainted with the present State of this Province as your Memorialists, or whose Interest in the welfare of it, is of a more transient nature) that it is not yet ripe for an Assembly, That the Kings old Subjects are but few in number, and that they possess but little Property in proportion to the new Subjects who are the Body of the People but of the Roman Catholick Communion? Your Memorialists who have well weighed and seriously

[1] See p. 165.
[2] See p. 495.

considered these objections take the Liberty to assure your Lordship that in their humble opinion the Province is at this Time perfectly mature for the Reception of that Establishment, And that an Assembly to act in Conjunction with his Majesty's Governor and Council would in time give much more Satisfaction to the People, would point out more evidently the true Interest of the Colony, its Powers and Resources and be better able, than a Governor and Council, to make Laws Ordinances and Statutes suitable to their own Emergencies. Your Memorialists have the honor to assure your Lordship, That the Number and real Property of his Majesty's antient Subjects are not so triffling as may have been represented, for several of them possess the largest and best cultivated Seigniorys in the Province (The Lands of the religious Society's excepted) and most of them are proprietors of freehold Estates.[1] Their Personal Estates by far exceed those of the new Subjects. The Trade and Commerce of the Country ever since the Conquest and at this Time being principally carried on by his Majesty's old Subjects.[2]

The Settlement of the legislation of the Colony is not the only object your Memorialists have to request your Lordships Attention to. They beg leave to lay before Your Lordship the deplorable State it is in for want of Protestant Seminarys and Protestant Schools for the Education and Instruction of Youth, It is with regret that they see the rising Generation of Children born of Protestant Parents utterly neglected and daily exposed to the known assiduity of the Roman Catholic Clergy of different Orders who are very numerous in this Province and who from their own immense funds have lately established Seminarys alarming in their foundation (all Protestant Teachers of every Science being excluded therefrom, The Children of British Parents must therefore go without Instruction or attend these, For tho' his Majesty's antient Subjects are willing to contribute to the utmost of their Power to encourage Men of Learning and ability to come to reside among them, Yet that is insufficient without the aid and assistance of Government.

Your Memorialists have also the Honour to represent to Your Lordship, That the Trade Cultivation and Prosperity of the Colony have been much interrupted by the sequestration of the upper Indian trading Posts, Lake Champlain and the Coast of Labradore from this Government, by which not only the natural resources of the Province have been greatly restrained but many of the Inhabitants as well old as new Subjects have thereby been deprived of their personal Property and even of their real Estates which the latter held and enjoyed for many Years before the Conquest and which the former purchased on the faith of the Capitulation and Treaty of Peace, And Your Memorialists will venture to assure Your Lordship That if the

[1] A partial list of the British owners of lands, including seigniories, in the Province of Quebec, in 1773, is given in the Dartmouth Papers; See Canadian Archives, M 384, p. 233.

[2] Chief Justice Hey, in a letter to the Lord Chancellor given below, says on this point, referring to the English merchants, "with whom almost the whole trade of the country lyes, & which without them was & without them will continue except in a very few articles & those to no extent, a country of no trade at all." See Q 12, p. 208.

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Province is not restored to its antient Limits and the parts which have been dismembered from it reunited to that Government to which nature points they should belong, and all be put under some salutary and well judged Regulations. The Morals of the Indians will be debauched, and the Fur-Trade as well as the Winter Seal Fishery for ever lost not only to this Province but to Great Britain, as neither can be carried on to advantage but by the Inhabitants of Canada.

Your Memorialists might add much more in support of the Subject matter of this Memorial as well as on many other Matters very interesting to the Province, but as your Memorialists will not incroach on your Lordships Time and Patience they conclude by humbly and ardently praying your Lordship to be pleased to lay their most humble Petition herewith transmitted before his Majesty and humbly intreating Your Lordships Intercession and good Offices in that behalf as well as in behalf of the other important Objects pointed out to your Lordship in this their Memorial, And reposing themselves entirely on your Lordships known honour, Understanding and Uprightness.

They as in Duty bound will ever Pray &c—

Quebec 31st Decem^{r} 1773.

	Jenkins Williams
A Committee named at	John Welles
a Meeting of his	John Lees
Majesty's antient Sub-	John McCord
jects residing in the	Cha^{s} Grant
District of Quebec.	Malcolm ffraser
	Zach. macaulay

(Original)

Endorsed:—Memorial of the Kings Ancient Subjects in the District of Quebec to His Majesty. R/ 1st June 1774.

MEMORIAL FROM MONTREAL TO LORD DARTMOUTH.

To The Right Honorable The Earl of Dartmouth one of His Majesty's Principal Secretaries of State.[1]

The Memorial of the Freeholders, Merchants, Planters and Others, His Majesty's Antient and Loyal Subjects now in the Province of Quebec. Sheweth,

That your Lordships Memorialists encouraged by the Capitulation of Canada, confirm'd by the definitive Treaty of Peace and His Majestys Royal Proclamation of 7th of October 1763, did purchase Lands, Plant, Settle, and carry on Trade and Commerce in this Province, to a very considerable Amount, and to the manifest Advantage of Great Britain—in confident Expectation of the early Accomplishment of His Majesty's said

[1] Canadian Archives, Q 10, p. 63. This, it will be observed, is simply a summary of the preceding petition from Quebec.

Proclamation, giving express Power and Direction, to his Governour, with the Advice and Consent of his Council, to summon and call General Assemblies, to make, constitute and ordain, Laws, Statutes and Ordinances, for the Publick Peace, Welfare, and good Government of the said Province, as near as might be agreeable to the Laws of England—For which Reasons Your Memorialists have drawn up and transmitted herewith Their most humble Petition to The King, praying his Majesty will, out of his Royal and Paternal Care, of all his Dutifull and Loyal Subjects, in this Province, be graciously pleased to relieve them from the Apprehensions They are under of their Property being endangered, and loosing the Fruits of their Labour ; exposed to Ordinances of a Governor and Council, repugnant to the Laws of England, which take Place before His Majesty's Pleasure is known, and are not only contrary to His Majesty's Commission and private Instructions to his said Governour, but we presume equally Grievous to His Majesty's New and Antient Subjects.

Your Lordships Memorialists further see with Regret, the great Danges, the Children born of Protestant Parents are in, of being utterly neglected for want of a sufficient Number of Protestant Pastors, and thereby exposed to the usual and known Assiduity of the Roman Catholick Clergy, of different Orders, who are very Numerous in this Country, and who from their own immense Funds, have lately established a Seminary for the Education of Youth, in this Province, which is the more alarming as it excludes all Protestant Teachers of any Science whatever.

Wherefore Your Lordship's Memorialists humbly pray that you will be pleased to present, their said Petition to His Majesty—And also pray Your Lordship's Intercession and good Offices in that behalf.

And Your Lordships Memorialists as in Duty bound shall ever Pray
Montreal January 15th 1774

A committee appointed
at a General Meeting
of the Inhabitants
of Montreal.

Edwd Wm Gray
R. Huntley
Lawrence Ermatinger
Will Haywood
James M'Gill
Jas. Finlay
Edward Chinn

(Original)

Endorsed:—Memorial of the Kings Ancient Subjects in the District of Montreal to the Earl of Dartmouth. R/ 1st June 1774.

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DARTMOUTH TO CRAMAHÉ.[1]

WHITEHALL May 4th 1774.

Lieut. Governor Cramahé

SIR,

I have received your Letters No. 13 & 14[2] & have laid them before the King, together with the two Petitions transmitted therewith.

The Manner in which the Petitioners have expressed their Wishes is decent & respectful, but I am fully convinced from your Account of the Steps taken to procure these Petitions that it was become highly necessary that the Arrangements for the Government of Quebec should be no longer delayed ; And I have the Satisfaction to acquaint you that I did on Monday last present to the House of Lords a Bill for the Regulation of that Government,[3] which is calculated to lay the Foundation for those Establishments that I hope will give full Satisfaction to all His Majesty's Subjects & remove those difficulties with which the Administration of the Government in that Province has been so greatly embarrassed.

I am &c

DARTMOUTH.

CRAMAHÉ TO DARTMOUTH.[4]

QUEBEC 15th July 1774.

(N° 17).

Duplicate. MY LORD!

Your Lordship will herewith receive the Minutes of His Majesty's Council of this Province to the End of June last.

I am Honoured with Your Lordship's Circular Dispatch of 2d March,[5] and one of the 6th April[6] Numbered 11; The Event, which Your Lordship was pleased to notify in the former, affords great Satisfaction to all His Majesty's Loyal Subjects in this Province ; I am extremely Happy in receiving my Royal Master's Approbation of my answer to the Petitioners for an Assembly.

His Majesty's old subjects in this Province, tho' collected from all Parts of His extensive Dominions, have in General, at least such as intend remaining in the Country, adopted American Ideas in regard to Taxation, and a Report, transmitted from one of their Correspondents in Britain, that a Duty upon Spirits was intended to be raised here by Authority of

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[1] Canadian Archives, Q 10, p. 55.

[2] Letter No. 13 is that of Cramahé to Dartmouth, of Jan. 19th, 1774, referred to in note 2, p. 495, enclosing the petitions to the King. No. 14 is that of Feb. 3rd, 1774, referred to in note 1, p. 498.

[3] The Quebec Bill was introduced in the House of Lords by Lord Dartmouth, May 2nd, 1774.

[4] Canadian Archives, Q 10, pp. 79-81.

[5] Announcing the birth, on Feb. 24th, of Prince Adolphus Frederick, afterwards Duke of Cambridge.

[6] See Dartmouth to Cramahé, Q 10, p. 42, expressing approval of his reply to the petitioners for a House of Assembly.

Parliament, was a principal Cause of setting them upon petitioning for an Assembly, and endeavouring to engage their Fellow Subjects to join therein.

Some of the Committee, with whom I conversed this Spring upon the Subject, acknowledged the Irregularity of their Assembling without the Consent, or Approbation of the King's Governor, that it was an ill example shewen to their Fellow Subjects, whom it was their Interest, if it were only upon Account of their great Superiority in Point of Numbers, to see continue in those Habits of Respect and Submission to which they had been accustomed, and, upon my stating these and some other Reasons in the strongest Manner I could, promised not to engage again in such a Business ; From the Temper they seem to be in at present, and the tractable Disposition of the Canadians, I am Hopefull, they will wait with Patience, until an Opportunity offers for perfecting those Arrangements, they have been made to expect, and which in certain Cases are much wanted, and therefore much to be desired.[1]

* * * * * *

I have the Honor to be with the greatest Respect
My Lord Your Lordship's
Most Obedient And
Most Humble Servant
H. T. CRAMAHÉ

Earl of Dartmouth
One of His Majesty's
Principal Secretaries of State.

PETITION OF FRENCH SUBJECTS.

A Petition of divers of the Roman-Catholick Inhabitants of the Province of Quebeck to the King's Majesty, signed, and transmitted to the Earl of Dartmouth, his Majesty's Secretary of State for America, about the Month of December, 1773, and presented to his Majesty about the Month of February, 1774.[2]

Au Roy.

'Sire, Vos très-soûmis et très-fidéles nouveaux sujets de la province 'de Canada prennent la liberté de se prosterner au pied du throne, pour y 'porter les sentiments de respect, d'amour, et de soûmission dont leurs 'cœurs sont remplis envers votre auguste personne, et pour lui rendre de très-'humbles actions de grace de ses soins paternels.

'Nôtre reconnoissance nous force d'avoüer que le spectacle effrayant 'd'avoir été conquis par les armes victorieuses de vôtre Majesté n'a pas

[1] The remainder of the despatch refers only to Indian affairs and hence is omitted.

[2] This petition, which does not appear among the State Papers, together with the translation of it and the memorial which follows, are taken from Maseres' "An Account of the Proceedings" &c. pp. 112-131. Concerning this Maseres says, "It is easy to see that the foregoing petition of the aforesaid French inhabitants of Canada has been made the foundation of the act of parliament above-recited." (The Quebec Act) p. 131.

'longtems excité nos regrets et nos larmes. Ils se sont dissipés à mesure que 'nous avons appris combien il est doux de vivre sous les constitutions sages 'de l'empire Britannique. En effêt, loin de ressentir au moment de la 'conquête les tristes effêts de la gêne et de la captivité, le sage et vertueux 'Général qui nous a conquis, digne image du Souverain glorieux qui lui 'confia le commandement de ses armées, nous laissa en possession de nos 'loix et de nos coûtumes. Le libre exercice de nôtre religion nous fût 'conservé, et confirmé par le traité de paix: et nos anciens citoyens furent 'établis les juges de nos causes civiles.[1] Nous n'oublirons jamais cet excès 'de bonté : ces traits généreux d'un si doux vainqueur seront conservé pré-'cieusement dans nos fastes ; et nous les transmettrons d'âge en âge à 'nos derniers neveux.—Tels sont, Sire, les doux liens qui dans le principe 'nous ont si fortement attachés à vôtre majesté : liens indissolubles, et qui 'se resserreront de plus en plus.

'Dans l'année 1764, votre Majesté daigna faire cesser le gouvernement 'militaire dans cette colonie, pour y introduire le governement civil. Et dès l'époque de ce changement nous commençames à nous appercevoir des 'inconvenients qui résultoient des loix Britanniques, qui nous étoient 'jusqu'alors inconnües. Nos anciens citoyens, qui avoient réglé sans frais 'nos difficultés, furent remerciez : cette milice qui se faisoit une gloire de 'porter ce beau nom sous vôtre empire, fût supprimée. On nous accorda à 'la vérité le droit d'être jurés : mais, en même tems, on nous fit éprouver 'qu'il y avoit des obstacles pour nous à la possession des emplois. On 'parla d'introduire les loix d'Angleterre,[2] infiniment sages et utiles pour 'la mére-patrie, mais qui ne pourroient s'allier avec nos coûtumes sans 'renverser nos fortunes et détruire entiérement nos possessions.—Tel ont 'été depuis ce tems, et tels sont encore, nos justes sujets de crainte ; tem-'pérés néanmoins par la douçeur du gouvernement de vôtre Majesté.

'Daignez, illustre et généreux Monarque, dissiper ces craintes en nous 'accordant nos anciennes loix, priviléges, et coûtumes, avec les limites du 'Canada telles qu'elles étoient cy-devant. Daignez repandre également 'vos bontés sur touts vos sujets sans distinction. Conservez le titre glorieux 'de Souverain d'un peuple libre. Eh ! ne seroit-ce pas y donner atteinte, 'si plus de cent milles nouveaux sujets, soûmis à vôtre empire, étoient 'exclus de vôtre service et privés des avantages inestimables dont joüissent 'vos anciens sujets ?—Puisse le ciel, sensible à nos priéres et nos vœux, faire 'joüir vôtre Majesté d'un regne aussi glorieux que durable ! —Puisse cette 'auguste famille d'Hanovre, à laquelle nous avons prêté les sermens de 'fidélité les plus solemnels, continuer à regner sur nous à jamais !

'Nous finissions en suppliant vôtre Majesté de nous accorder, en com-'mun avec ses autres sujets, les droits et priviléges de Citoyens Anglois. 'Alors nos craintes seront dissipées : nous filerons des jours sérains et tran-

[1] See, however, the proclamations of Amherst and Murray, pp. 38 & 42.

[2] For the basis of this change and the circumstances attending it, see Ordinance of Sept. 17th, 1764 and the notes thereon; p. 205.

'quilles ; et nous serons toujours prêts à les sacrificer pour la gloire de nôtre 'prince et le bien de nôtre patrie.'

'Nous sommes, avec la submission la plus profonde.
'De votre Majesté,
'Les très-obéissant, très-zélés, et
'très-fidéles sujets,

'Fr. Simmonnet,
'Landriéve,
'De Rouville,
'De Rouville, fils,
'Longueuil,
'Hertel Beau bassin,
'St. Disier,
'John Vienne,
'La Perier,
'Le Palliau,
'J. Daillebout de Cuisy,
'Gordien de Cuisy, fils,
'La Corne, fils,
'Picotté de Belestre,
'St. Ours,
'St. Ours, fils,
'Chevalier de St. Ours, l'eschaillon,
'Carilly,
'La Corne,
'Le Moine,
'Quinson de St. Ours,
'Guy,
'Pouvret,
'Contrecœur,
'St. George Du Prè,
'Des Riviéres,
'Louvigny de Montigny,
'Montigny, fils,
'Sanguinet,
'L. Porlier,
'Jean Crittal,
'J. G. Hubert,
'Pierre Panet, fils,
'Fr. Cariau,
'Pierre Foretier,
'Landriaux,
'L. Defoui,
'J. G. Pillet,
'La Combe,
'Fr. La Combe,
'Ch. Sanguinet,
'Jobert,
'J. Sanguinet,
'M. Blondeau,
'S. Chaboille,
'Eauge,
'J. G. Bourassa,
'J. La Croix,
'P. Panet,
'Giasson,
'J. B. Blondeau,
'Vallés,
'Le Grand,
'Pillet,
'L. Baby,
'P. Pillet,
'Hamelin, fils,
'Laurent Du Charme
'Foucher,
'Berthelot,
'Lamber St. Omer,
'Méziére,
'De Bonne,
'St. Ange,
'Gamelin.

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Translation of the foregoing Petition of divers of the French Inhabitants of the Province of Quebeck to the King's Majesty, which was signed about the Month of December, 1773, and presented to the King about February, 1774.

'SIR,

'Your most obedient and faithful new subjects in the province of 'Canada take the liberty to prostrate themselves at the foot of your throne, 'in order to lay before you the sentiments of respect, affection, and obedi- 'ence towards your august person, with which their hearts overflow, and to 'return to your majesty their most humble thanks for your paternal care 'of their welfare.

'Our gratitude obliges us to acknowledge, that the frightful appearance 'of conquest by your majesty's victorious arms did not long continue to 'excite our lamentations and tears. They grew every day less and less as 'we gradually became more acquainted with the happiness of living under 'the wise regulations of the British empire. And even in the very moment 'of the conquest, we were far from feeling the melancholy effects of restraint 'and captivity. For the wise and virtuous general who conquered us, 'being a worthy representative of the glorious sovereign who entrusted him 'with the command of his armies, left us in possession of our laws and 'customs : the free exercise of our religion was preserved to us, and after- 'wards was confirmed by the treaty of peace ; and our own former country- 'men were appointed judges of our disputes concerning civil matters. 'This excess of kindness towards us we shall never forget. These generous 'proofs of the clemency of our benign conqueror will be carefully preserved 'in the annals of our history ; and we shall transmit them from generation 'to generation to our remotest posterity. These, Sir, are the pleasing ties 'by which, in the beginning of our subjection to your majesty's government, 'our hearts were so strongly bound to your majesty ; ties which can never 'be dissolved, but which time will only strengthen and draw closer.

'In the year 1764, your Majesty thought fit to put an end to the 'military government of this province, and to establish a civil government 'in its stead. And from the instant of this change we began to feel the 'inconveniencies which resulted from the introduction of the laws of England, 'which till then we had been wholly unacquainted with. Our former 'countrymen, who till that time had been permitted to settle our civil 'disputes without any expence to us, were thanked for their services, and 'dismissed ; and the militia of the province, which had till then been proud 'of bearing that honourable name under your majesty's command, was laid 'aside. It is true indeed we were admitted to serve on juries : but at the 'same time we were given to understand, that there were certain obstacles 'that prevented our holding places under your majesty's government. 'We were also told that the laws of England were to take place in the pro- 'vince, which, though we presume them to be wisely suited to the regulation

'of the mother-country for which they were made, could not be blended 'and applied to our customs without totally overturning our fortunes and 'destroying our possessions. Such have been ever since the æra of that 'change in the government, and such are still at this time, our just causes 'of uneasiness and apprehension ; which however we acknowledge to be 'rendered less alarming to us by the mildness with which your majesty's 'government has been administered.

'Vouchsafe, most illustrious and generous sovereign, to dissipate these 'fears and this uneasiness, by restoring to us our ancient laws, privileges, and 'customs, and to extend our province to its former boundaries. Vouchsafe 'to bestow your favours equally upon all your subjects in the province, 'without any distinction ! Preserve the glorious title of sovereign of a 'free people: a title which surely would suffer some diminution, if more than 'an hundred thousand new subjects of your majesty in this province, who 'had submitted to your government, were to be excluded from your ser- 'vice, and deprived of the inestimable advantages which are enjoyed by 'your majesty's antient subjects. May heaven, propitious to our wishes 'and our prayers, bestow upon your majesty a long and happy reign ! 'May the august family of Hanover, to which we have taken the most 'solemn oaths of fidelity, continue to reign over us to the end of time !

'We conclude by intreating your majesty to grant us, in common with 'your other subjects, the rights and privileges of citizens of England. Then 'our fears will be removed, and we shall pass our lives in tranquillity and 'happiness, and shall be always ready to sacrifice them for the glory of our 'prince and the good of our country.

'We are, with the most profound submission,

'Your majesty's most obedient, most loyal, and most faithful 'subjects,

'Fr Simonnet, &c. &c.'

A MEMORIAL OF THE FOREGOING FRENCH PETITIONERS IN SUPPORT OF THEIR PETITION.

'Mémoire pour appuyer les demandes des très soûmis et très fidéles nou- 'veaux sujets de sa majesté en Canada.

'L'Augmentation d'un si vaste païs, tel qu'il étoit lors du gouverne- 'ment François dont le nombre des habitants excéde actuellement plus 'de cent milles âmes, dont les dix-neuf vingtiémes sont nouveaux sujets ;– – 'l'avancement de son agriculture ;– –l'encouragement de sa navigation et 'de son commence ; – – – – –un arrangement à faire sur des fondements 'inébrantables, qui puisse déraciner la confusion qui y regne, faute de loix 'fixes et autorisées ; – – –sont des points présentement en considération 'qui sont dignes de la sagesse du gouvernement.

'La conservation de nos anciennes loix, coûtumes, et priviléges dans 'leur entier, (et qui ne peuvent être changées ni altérées sans détruire et 'renverser entiérement nos titres et nos fortunes,) est une grace et un acte de 'justice que nous espérons de la bontè de sa majesté.

'Nous demandons avec ardeur la participation aux emplois civils et 'militaires L'idée d'une exclusion nous effraye. Nous avons prêté à sa 'majesté et à l'auguste famille d'Hanovre le serment de fidélité le plus 'solemnel : et depuis la conquête nous nous sommes comportés en fidéles 'sujets. Enfin nôtre zèle et nôtre attachement nous feront toûjours sacrifier 'nos jours pour la gloire de nôtre souverain et la sûreté de l'état.

'La colonie, telle qu'elle est fixée maintenant par la ligne de quarante 'cinq degrés, est trop resserrée dans ses limites.[1] Cette ligne, qui la borne, 'passe à environ quinze lieües au dessus de Montréal : et cependant c'est 'de ce seul côté que les terres se trouvent fertiles, et que peut s'étendre avec 'plus d'avantage l'agriculture. Nous supplions que, comme sous le tems 'du gouvernement François, on laisse à nôtre colonie touts les païs d'enhaut 'connus sous les noms de Missilimakinac, du Détroit, et autres adjacents 'jusques au fleuve du Mississippi.[2] La ré-union de ces postes seroit d'autant 'plus nécessaire à nôtre païs que, n'y ayant point de justice établie, les 'voyageurs de mauvaise foi, auxquels nous fournissons des marchandises pour 'faire le commerce avec les sauvages, y restent impunément avec nos effêts; 'ce qui ruine entiérement cette colonie, et fait de ces postes une retraite 'de brigands capables de soulever les nations sauvages.[3]

'Nous désirons aussi qu'il plût à sa majesté re-unir à cette colonie la 'côte de Labrador, (qui en été aussi soustraite), telle qu'elle y étoit autre-'fois. La pesche du loup marin (qui est le seule qui se fait sur cette côte,) 'ne s'exerce que dans le fond de l'hyver, et ne dure souvent pas plus d'une 'quinzaine de jours. La nature de cette pesche, qui n'est connuë que des 'habitants de cette colonie ; – — – son peu de durée ; – – – et la rigueur de 'la saison, qui ne permet point aux navires de rester sur les côtés ; – – –com-'binent à exclurre touts les pescheurs qui viennent de l'Angleterre.

'Nous représentons humblement que cette colonie, par les fléaux et 'calamités de la guerre et les frequents incendies que nous avons essuiés, 'n'est pas encore en état de payer ses dépenses, et, par conséquent, de former 'une chambre d'assemblée. Nous pensons qu'un conseil plus nombreux 'qu'il n'a été jusques ici, composé d'anciens et nouveaux sujets, seroit 'beaucoup plus à propos.

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[1] See note 3, p. 485.

[2] For the considerations which prevailed in fixing the boundaries of the Province of Quebec in 1764, see the Papers relating to the Establishment of Civil Government; p. 140 & pp. 151-152.

[3] Both the French and British elements in Quebec favoured an extension of the boundaries of the Province as a means of placing in their hands a monopoly of the trade with the western Indians. The problem of the regulation of the Indian trade was the occasion of a great many despatches and reports with the most varied proposals. One of the most comprehensive presentations of the situation, as it affected all the northern colonies interested in the western trade and settlement, was furnished in a communication from Lord Shelburne to the Lords of Trade, dated Oct. 5th, 1767, including the views of Sir Jef. Amherst and Gen. Gage, together with all other papers available which might throw light on the subject. See Calendar of the Home Office Papers, 1766-69, No. 568.

'Nous avons lieu d'esperer des soins paternels de sa majesté, que les 'pouvoirs de ce conseil seront par elle limitées, et qu'ils s'approcheront le 'plus qu'il sera possible, à la douceur et à la modération qui font la base du 'gouvernement Britannique.

'Nous espérons d'autant mieux cette grace que nous possédons plus 'de dix douziémes des seigneuries et prèsque toutes les terres en rotures.

'Fr. Simonnet, &c., &c.'[1]

Translation of the foregoing Memorial in Support of the Requests made by his Majesty's most obedient and most faithful new Subjects in Canada, in their Petition above-mentioned.

'The improvement of so vast a country as Canada is, if considered as 'having the same boundaries as it had in the time of the French govern- 'ment; a country in which there are at present more than an hundred 'thousand inhabitants, of whom more than nineteen in twenty are new 'subjects of the king ; — — — —the increase of agriculture in this country ; '— — —the encouragement of its trade and navigation ;– – –a settlement 'of the laws by which its inhabitants are to be governed, built upon solid 'and immoveable foundations, so as to remove and cut up by the roots the 'confusion which at present overspreads the province in consequence of the 'want of clear and known laws established by an incontestable authority ; '– – –are points which are now proposed to the consideration of the British 'government, and are worthy objects of its attention and wisdom.

'The continuance of our ancient laws, customs, and privileges, in their 'whole extent, (because it is impossible to change or alter them without 'destroying and totally overthrowing our titles to our estates and our 'fortunes ;) is a favour, and even an act of justice, which we hope for from 'the goodness of his majesty.

'We ardently desire to be admitted to a share of the civil and military 'employments under his majesty's government. The thought of being 'excluded from them is frightful to us. We have taken the most solemn oath 'of fidelity to his majesty and the august family of Hanover : and ever 'since the conquest of the country, we have behaved like loyal subjects. 'And our zeal and attachment to our gracious sovereign will make us always 'ready to sacrifice our lives for his glory and the defence of the state.

'The province, as it is now bounded by a line passing through the 'forty-fifth degree of north latitude, is confined within too narrow limits. 'This line is only fifteen leagues distant from Montreal. And yet it is only 'on this side that the lands of the province are fertile, and that agriculture 'can be cultivated to much advantage. We desire therefore that, as under 'the French government our colony was permitted to extend over all the 'upper countries known under the names of Michilimakinac, Detroit, and

[1] There follows the same list of names as that appended to the petition which precedes.

'other adjacent places, as far as the river Mississippi, so it may now be 'enlarged to the same extent. And this re-annexation of these inland 'posts to the province is the more necessary on account of the fur-trade 'which the people of this province carry on to them; because, in the present 'state of things, as there are no courts of justice whose jurisdiction extends 'to those distant places, those of the factors we sent to them with our goods 'to trade with the Indians for their furs who happen to prove dishonest 'continue in them out of the reach of their creditors, and live upon the 'profits of the goods entrusted to their care : which intirely ruins this 'colony, and turns these posts into harbours for rogues and vagabonds, 'whose wicked and violent conduct is often likely to give rise to wars with 'the Indians.

'We desire also that his majesty would be graciously pleased to re-'annex to this province the coast of Labrador, which formerly belonged to 'it, and has been taken from it since the peace. The fishery for seals, 'which is the only fishery carried on upon this coast, is carried on only in 'the middle of winter, and sometimes does not last above a fortnight. The 'nature of this fishery, which none of his majesty's subjects but the inhabi-'tants of this province understand ; the short time of its continuance ; and 'the extreme severity of the weather, which makes it impossible for ships 'to continue at that time upon the coasts ; are circumstances which all 'conspire to exclude any fishermen from Old England from having any 'share in the conduct of it.

'We further most humbly represent that, by means of the ravages and 'calamities of the late war, and the frequent fires that have happened in our 'towns, this colony is not as yet in a condition to defray the expences of 'its own civil government, and consequently not in a condition to admit 'of a general assembly. We are therefore of opinion that a council that 'should consist of a greater number of members than that which has hith-'erto subsisted in the province, and that should be composed partly of his 'majesty's old subjects, and partly of his new ones, would be a much 'fitter instrument of government for the province in its present state.

'We have reason to hope, from the paternal care which his majesty has 'hitherto shewn for our welfare, that the powers of this council will be 'restrained by his majesty within proper bounds, and that they will be made 'to approach as near as possible to the mildness and moderation which form 'the basis of the British government.

'We hope the rather that his majesty will indulge us in the above 'requests, because we possess more than ten out of twelve of all the seig-'niories in the province, and almost all the lands of the other tenure, or 'which are holden by rent-service.

'Fr. Simonnet, &c., &c.'

CASE OF THE BRITISH MERCHANTS TRADING TO QUEBEC.[1]

The Case of the British Merchants trading to Quebeck, and others of his Majesty's natural-born Subjects, who have been induced to venture their Property in the said Province on the Faith of his Majesty's Proclamation, and other Promises solemnly given.

The proclamation of October 1763

The king's most excellent majesty was graciously pleased, by his royal proclamation[2] of the seventh of October, one thousand seven hundred and sixty-three, passed under the great seal of Great-Britain to invite his loving subjects, as well of his kingdoms of Great-Britain and Ireland, as of his colonies in America, to resort to the said province of Quebeck, and the other provinces then lately ceded to his majesty by the French king, in order to avail themselves, with all convenient speed, of the great benefits and advantages that must accrue therefrom to their commerce, manufactures, and navigation ; and as an encouragement to them so to do, to publish and declare, that his said majesty had, in the letters patent under the great seal of Great-Britain, by which the new governments in the said ceded countries had been constituted, given express power and directions to his governours in the said new colonies, *that so soon as the state and circumstances of the said new colonies would admit thereof, they should summon and call general assemblies within the said governments*, in such manner and form as is used and directed in those colonies and provinces in America which were under his majesty's immediate government ; and that his majesty had also given powers to the said governours, with the consent of his majesty's councils of the said province, and the representatives of the people in the same, so to be summoned as aforesaid, to make, constitute and ordain laws, statutes, and ordinances for the publick peace, welfare, and good government of his majesty's said colonies, and of the people and inhabitants thereof, as near as may be agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies ; and was pleased further to declare, *that in the mean time, and until such assemblies could be called as aforesaid, all persons*

[1] According to Maseres, this presentation of the case of the British merchants in London, "was drawn up at the desire of the said merchants, in the month of May last, at the time of passing the late Quebeck bill, and of which printed copies were distributed to several members of both houses of parliament, in order to give weight to a petition against that bill which these merchants at that time presented to the House of Commons in behalf of themselves and their correspondents and friends, the British inhabitants of the province of Quebeck." "An Account of the Proceedings" &c., p. 201. The petition here referred to was presented in the House of Commons by Mr. Mackworth on May 31st. See Cavendish's Debates on the Quebec Bill, pp. 74-75. The "Case" as here given is taken from Maseres' "An Account of the Proceedings" &c., p. 202. Another copy, evidently from the same source, is given in the Dartmouth papers, M 385, p. 393. There is no doubt, from the style of the document, that Maseres was employed by the merchants to state their case in due form.

[2] See p. 163.

inhabiting in, or resorting to, his majesty's said colonies might confide in his majesty's royal protection for the enjoyment of the benefits of the laws of England; and that for that purpose his majesty had given power, under the great seal, to the governours of his majesty's said new colonies, to erect and constitute, with the advice of his majesty's councils of the said provinces respectively, courts of judicature and publick justice within the said colonies, for the hearing and determining all causes, as well criminal as civil, according to law and equity, *and as near as may be, agreeably to the laws of England.*

Provincial ordinance of Sept. 17, 1764.

And in pursuance of the said proclamation, and of the commission of captain-general and governour in chief of the said province of Quebec, granted to major-general Murray,[1] in the following month of November, one thousand seven hundred and sixty-three, and by him received and published in the month of August of the following year, one thousand seven hundred and sixty-four, the said major-general Murray did, with the advice of his majesty's council of the said province, make and publish an ordinance of the said province on the seventeenth day of September, in the same year, one thousand seven hundred and sixty four, for erecting and constituting courts of judicature[2]; and by the said ordinance did erect two principal courts of judicature, called the Courts of Kings Bench, and Common Pleas ; and did by the said ordinance give power and authority to the chief justice of the province, before whom the said court of King's Bench was to be held, to hear and determine all criminal and civil causes, agreeably to the laws of England, and the ordinances of the said province ; and did likewise, by the said ordinance, direct and command the judges of the said second court, called the Court of Common Pleas, to determine all matters brought before them agreeably to equity, having regard nevertheless to the laws of England, as far as the circumstances and then present situation of things would admit, until such time as proper ordinances for the information of the people could be published by the governour and council of the said province, agreeable to the laws of England.

Provincial ordinance of November, 1764.

And on the sixth day of November, in the same year, one thousand seven hundred and sixty-four, another provincial ordinance was published by the said governour Murray, and his majesty's council of the said province, for the sake of quieting the minds of his majesty's new Canadian subjects, and removing the apprehensions occasioned by the said introduction of the laws of England into the said

[1] See p. 173.
[2] See p. 205.

province,[1] by which it was ordained and declared, that until the tenth day of August then next ensuing, that is, in the year of our Lord one thousand seven hundred and sixty-five, the tenures of the lands, in respect of such grants as were prior to the cession of the said province, by the definitive treaty of peace signed at Paris, on the tenth day of February, one thousand seven hundred and sixty-three, and the rights of inheritance, as practised before that period, in such lands or effects of any nature whatsoever, according to the custom of the said country, should remain to all intents and purposes the same, unless they should be altered by some declared and positive law.

Conclusion drawn from the said proclamation and ordinances by the king's ancient & natural-born subjects.

And the said two ordinances have been transmitted to his majesty, and never disallowed by him, and are therefore generally understood by his majesty's British subjects in the said province, to have received the sanction of his majesty's royal approbation; and in consequence of the said two ordinances, together with the proclamation aforesaid of the seventh of October, one thousand seven hundred and sixty-three, and the two commissions of governour in chief of the said province, granted successively to major-general Murray and major-general Carleton, which seem in every part of them to pre-suppose that the laws of England were in force in the said province of Quebeck, being full of allusions and references to those laws on a variety of different subjects, and do not contain any intimation of a saving of any part of the laws and customs that prevailed in the said province in the time of the French government, we the British merchants trading to Quebeck, and all the ancient British subjects residing in the said province have been made to understand and believe, that the laws of England have been introduced into the said province, and that they have had the sanction of his majesty's royal word, that they should continue to be observed in the said province.

The petitioners are alarmed at the design of revoking the king's proclamation, and commission to his governour, &c.

We cannot therefore but express our surprise and concern at hearing that a bill is now brought into parliament, by which it is intended, that the said royal proclamation of October, one thousand seven hundred and sixty-three, and the commission under the authority whereof the government of the said province is at present administered, and all the ordinances of the said province, relative to the civil government and administration of justice in the same, and all commissions to judges and other officers of the same, should be revoked, annulled, and made void.

[1] See p. 229.

Credit given by the petitioners to persons residing in Canada upon the faith of the said proclamation, &c.

We humbly beg leave to represent, that many of us have, through a confidence in the said royal proclamation, and other instruments proceeding from, and allowed by, his majesty's royal authority, ventured to send considerable quantities of merchandize into the said province, and to give large credits to divers persons residing in the same, both of his majesty's new Canadian subjects, and of his antient British subjects, who have, through a like confidence in the said proclamation, resorted to, and settled themselves in, the said province. And that we have employed our property and credit in this manner, in a firm belief, that we should have the remedies allowed us by the laws of England for the security and recovery of it ; and that if we had supposed the French laws, which prevailed in the said province under the French government, to be still in force there, or to be intended to be revived in the same, we would not have had any commercial connections with the inhabitants of the said province, either French or English. And therefore we beg leave to represent, that we think ourselves intitled, upon the mere grounds of justice, (without desiring any favour to be shewn us on the account of our being his majesty's antient, and faithful, and protestant subjects, that are attached to his royal person and government by every tie of religion, interest, and habitual duty and affection) to insist that, if it be resolved to persist in this new measure of reviving all the former laws of Canada concerning property and civil rights, and abolishing the laws of England that have prevailed there in their stead since the establishment of the civil government in one thousand seven hundred and sixty-four, the execution thereof may at least be postponed until we shall have had sufficient time to withdraw our effects from the said province, and obtain payment of the debts which are owing to us in the same, by the remedies and methods of trial allowed and appointed by the laws of England in that behalf ; through a reliance on which remedies and methods of trial we were induced to venture our said effects there, and permit those debts to be contracted. And this time, we humbly represent, cannot well be less than three years.

They therefore desire that the intended revival of the French laws may at least be postponed for some time.

Vindication of the king's former conduct in introducing the laws of England into Canada.

We further beg leave to represent, that we apprehend his majesty's former conduct in introducing the laws of England into the said province by his proclamation and other instruments aforesaid, to have been in no wise unusual, or severe, or particularly harsh, with respect to his new Canadian subjects, nor to have been unexpected by them, but to have been the natural and known consequence of the conquest and cession of the country to his majesty by the late peace, according to the policy of the crown of Great-Britain on the occasion of similar con-

quests in former times. And we particularly beg leave to observe, that the whole law of England has been introduced into the kingdom of Ireland, in consequence of the conquest of it by the arms of England, without any the least mixture of the antient Irish laws, even upon the subjects of tenures and descents of land : and no inconvenience has been found to follow from it ; but, on the contrary, the similitude of laws is at this day a strong ground of union and mutual affection between the inhabitants of the two countries. And the like has been done with respect to the principality of Wales ; in which the English law is the only law that has been allowed for more than two hundred years past : and the like good effects have followed from it. And in the last century, upon the conquest of the province of New-York, then called the New Netherlands, from the Dutch, the same policy was observed, and the Dutch laws were totally abolished, and the English laws introduced in their stead, which have prevailed there ever since. And yet, at that time, the Dutch settlers in that province were very numerous, and from them much the greater part of the present inhabitants are descended. And, in conformity to these examples, we did conceive his most gracious majesty to have intended to introduce the laws of England, by his proclamation aforesaid, into the four new governments of Granada, East Florida, West Florida, and Quebeck, instead of the French and Spanish laws, which had prevailed therein under the former governments. And we conceive this conduct of his most gracious majesty, to have been no way derogatory to the articles of capitulation, granted to his Canadian subjects by general Amherst, upon the surrender of the whole country to his majesty's arms in September, one thousand seven hundred and sixty[1]; because, when the French general expressly demanded, in one of the articles of capitulation, "That the French and Canadians should continue to be governed according to the custom of Paris, and the laws and usages established for that country, and that they should not be subject to any other imposts than those that were established under the French dominion ;" the said general Amherst, in his answer to the said demand, declares, "*That they become the king's subjects;*"[2] thereby avoiding to tie up and preclude his late majesty, and his royal successors, from making such changes in the laws and taxes of the said province, as to his royal wisdom should seem meet.

The same thing was done in Ireland;

And in Wales;

And in New York.

A power of doing so in Canada was expressly reserved to the King by the capitulation.

The parts of the English law which the petitioners most

We further beg leave to represent, we that are most especially anxious for the preservation of those parts of the English law which relate to matters of navigation, commerce, and personal

[1] See Capitulation of Montreal, p. 7.
[2] Capitulation of Montreal, articles 41 & 42; see pp. 20 & 33-34.

particularly desire to be continued in the province.

contracts, and the method of determining disputes upon those subjects by the trial by jury, and likewise for those parts of it which relate to actions for the reparation of injuries received, such as actions of false imprisonment, and of slander, and of assault, and whatever relates to the liberty of the person, and most of all for the writ of habeas corpus, in cases of imprisonment ; which we take to be, in the strongest and most proper sense of the words, *one of the benefits of the laws of England*, of which his majesty has promised us the enjoyment by his proclamation above-mentioned, and which we apprehend to be a part of the English system of jurisprudence, to which our new Canadian fellow-subjects will not object.

The prosperous condition of the province since the introduction of the English law.

And we beg leave to represent, that the province of Quebeck has thriven exceedingly, both in agriculture and trade, since the establishment of the civil government of the province, and the introduction of the English laws into the same ; having exported last year about three hundred and fifty thousand bushels of corn ; whereas, in the time of the French government, they exported none at all, and produced hardly enough for their own subsistence.

The greater part of the trade of the province is carried on by the British inhabitants of it.

And we further beg leave to represent, that much the greater part of this trade is carried on by his majesty's old British subjects in the said province ; by which they may justly claim to themselves the merit of having been the principal promoters of the late great improvement of the province.

The petitioners do not object to the revival, or continuance, of the French laws relating to landed property.

And we further beg leave to represent, that we by no means object to a revival or continuance of the former French laws concerning the tenures of land, and the methods of alienating and conveying land, nor even concerning the inheritance of land belonging to Canadians born, or to be born, of marriages already contracted ; nor concerning dower, or the other civil rights of either men or women resulting from the matrimonial contract, so far as they relate to marriages already contracted. And we conceive that the revival of the French laws in these particulars, with full powers given to the Canadians of future times to continue them in their respective families at their pleasure by marriage-agreements, last wills, or deeds in their life-time, would be sufficient to give full satisfaction to the bulk of his majesty's new Canadian subjects, and make them acquiesce very chearfully in the general establishment of the laws of England, in conformity to his majesty's proclamation above-mentioned, upon all other matters.

Many of the British inhabitants of the province are possessed

And we further beg leave to represent, that several of his majesty's Old British subjects are possessed of a considerable quantity of landed property in the said province, and that

of considerable quantities of landed property in it.

others of them are daily becoming so ; and hereupon we will venture to affirm, that sixteen of the seigniories of that province, and some of them the most valuable ones in the country, are in the hands of the said Old British subjects.[1]

Concerning an assembly of the freeholders of the province.

And we further beg leave to represent, that, in consequence of his majesty's most gracious promise contained in his proclamation aforesaid, that, as soon as the situation and circumstances of the said province would permit, an assembly of freeholders and planters of the same should be called by his majesty's governour thereof, which, in conjunction with the said governour, and his majesty's council of the said province, should have power to make laws and ordinances for the welfare and good government of the said province, we have constantly entertained hopes that an assembly of the freeholders of the same would soon be established, and that we should enjoy the benefits resulting from that free and equitable method of government in common with the inhabitants of the adjoining provinces of North-America.

The petitioners are alarmed at the clause for establishing a legislative council in the province.

And therefore we beg leave to represent, that we have been very greatly alarmed by that part of the bill now before parliament, which seems to cancel the said most gracious promise of our sovereign, and to deprive us of all hopes of obtaining the establishment of a general assembly of the freeholders of the said province, and to establish in the stead thereof a very different mode of government in the said province, by a legislative council, consisting of persons appointed by, and removeable at the pleasure of, the crown ; more especially as the said new mode of government, (which we presume nothing but some urgent and very peculiar circumstances of necessity can be thought a sufficient reason for adopting) is not limited in the said bill to continue for only a certain small number of years, after which they might hope to have an assembly in the said province, agreeably to the said royal promise, but is established in very general terms, that remove that agreeable prospect out of their sight.

The want of a sufficient number of protestant landholders in the province to form an assembly has been hitherto alleged as the reason of the omission to call one.

We further beg leave to represent, that we have hitherto been made to understand, that the reason of the omission of his majesty's governours of the said province to call a general assembly of the freeholders of the same, from the first establishment of the civil government thereof, in the year one thousand seven hundred and sixty-four, to the present time, according to the powers and directions given them by his majesty in that behalf, in their commissions of captain-general and governour in chief of the said province, has been the difficulty of finding

[1] See "List of British proprietors of Lands in the Province of Quebec, 1773." Dartmouth Papers, M 384, p. 233. Twenty-nine of these are designated as holding seigniories.

a sufficient number of subjects of his majesty in the said province properly qualified, in all respects, to be members of such assembly, according to the directions of the said commissions, which required, that all persons who should become members either of the said assembly of the freeholders of the said province, or of his majesty's council of the same, should take the oath of abjuration of the pope's power, and subscribe the declaration against transubstantiation, as well as take the oath of allegiance and the oath of abjuration of the pretender's right to the crown of these realms, before they were admitted to sit and vote in such assembly and council.[1] And this objection, we beg leave to represent, is now thought, by persons well acquainted with the said province, to be at an end, there being now a sufficient number of freeholders in the said province to constitute a house of assembly, willing and ready to take the said oaths and declaration ; in proof of which we beg leave to inform this honourable house, that a petition has been lately presented to his majesty from the British and protestant inhabitants of the said province, signed by a great number of persons of that description, requesting his majesty to summon and call such a general assembly of the freeholders of the said province, and assuring him that there are a sufficient number of persons in the said province qualified according to the direction of his majesty's commission for that purpose, and humbly representing to his majesty, that the situation and circumstances of the said province are at present such, as not only render the said measure of establishing a general assembly practicable, but likewise make it to be highly expedient for the regulation and improvement of the said province.[2]

That reason is now at an end, there being a sufficient number of protestant freeholders for that purpose.

And we beg leave further to represent, that if it be thought inexpedient on the one hand to constitute a house of assembly, consisting of protestants only, agreeably to the directions of his majesty's commissions before-mentioned, on account of the great superiority of the numbers of the Roman-Catholicks in the said province, who would thereby be excluded from sitting in such assembly; and, on the other hand, it be thought dangerous to summon a general assembly into which the Roman-Catholicks should be admitted indiscriminately with the protestants; and, on account of this twofold difficulty, it be judged necessary to have recourse to the new method of government above-mentioned, by investing a council of persons nominated, and removeable at the pleasure of the crown, with a certain degree of legislative authority; we humbly hope that the same reasons which make it be judged dangerous to admit the Roman-Catholick inhabitants of the

Objection to the admission of Roman-

[1] See conditions stated in Murray's Commission, p. 175.
[2] See Petition to the King from Quebec and Montreal, p. 495.

Catholicks into the legislative council.

said province into a share of the legislative authority by means of an open assembly of the same, will be thought sufficient to exclude them from obtaining a share of the same authority by an admission into this new legislative council; which, being a single body invested with the power of making laws for the province, will be of more weight and consequence in the same, than an assembly of the freeholders would be, if the plan of government promised by his majesty's proclamation and commissions above-mentioned, by a governour, council and assembly, had been pursued. And therefore we cannot but express our concern to find, that in the bill now before parliament,[1] there is no provision that all, or even any of, the members of the said intended council should of necessity be protestants, but that they may be all Roman-Catholicks notwithstanding any thing contained in the same. And therefore we most humbly and earnestly intreat this honourable house to take care that, if such a legislative council must be established in the said province, in lieu of an assembly of the freeholders of the same, the members thereof shall be all protestants ; or, if that be thought too much to grant to them, that at least a majority of the members of the said council should necessarily be protestants, and only a few of the most moderate sort of Roman-Catholicks should be admitted into it, who should be required to take the oath of abjuration of the pope's authority, though not to subscribe the declaration against transubstantiation ; which is a temperament, which, as we conceive, might lead to good effects hereafter.

Necessity of making the members of the legislative council independent of the governour.

And we further beg leave to represent both on our own account, and in behalf of our friends and correspondents, the antient British inhabitants now residing in the said province, that, if the said province must be governed by a legislative council, nominated by his majesty, without the concurrence of an assembly of the freeholders of the same, we humbly hope that a clause will be inserted in the bill, to render the members of the said council incapable of being either removed or suspended by his majesty's governour of the said province, and liable only to be removed by his majesty himself, by his order in his privy council, (of whose wisdom and justice we can entertain no suspicion) to the end, that the said counsellors may both act with a spirit of freedom and independence becoming their high offices of legislators of the said province, and be thought to do so by the people of the same, instead of being considered as dependent creatures and tools of the will and pleasure of the governour for the time being, as we conceive will be the case, if he shall be

[1] The Quebec Bill.

invested with a power of removing or suspending them from their said offices at his discretion.

The petitioners desire that the legislative council may consist of a certain number of members, instead of a number that may be varied at pleasure.

And we beg leave further to represent, that it is also our wish, if such a legislative council shall be established in lieu of an assembly, that the number of the members thereof may be fixed and certain, instead of being liable to vary between the numbers of seventeen and twenty-three persons, as is proposed in the present bill ; and likewise, that the said council may be made as numerous as conveniently may be, to the end, that it may contain within it persons acquainted with every part of the province, and the interests of the inhabitants residing in the same, and that their acts and resolutions may be, for the most part, agreeable to the sentiments of the body of the people over whom they are to preside. And, with respect to this point, we beg leave to represent, that it is the opinion of some of the most judicious and respectable of our friends and correspondents in the said province, that it would be easy to find thirty-one persons amongst the British and other protestant inhabitants of the said province, capable of being useful members of such a council.

And they suggest that their number should be thirty-one.

They further desire that a majority of the whole number of counsellors may be made necessary to the transacting of business.

And we further beg leave to represent, that in case such a legislative council should be established, it is our earnest desire that provision may be made in the said bill, that a certain number of the members of the same shall be necessary to transact business ; without which it may happen, that a very small part of the whole body, as, for example, five or six persons, shall occasionally exercise the great powers vested in the whole, and make laws and ordinances that shall bind all the inhabitants of the province ; which, we humbly conceive, would be highly inexpedient and unbecoming, and cause great uneasiness in the said province. And we are humbly of opinion, that the number thus made necessary to the exercise of these high legislative powers, ought to be more than half the whole number of the members of such council.

And that the members may be paid for their attendance at the council, a certain sum of money for every attendance.

And we further beg leave to suggest it as our opinion concerning this legislative council, that it would be expedient that the members thereof should receive some reasonable reward out of the publick revenue of the province, for every attendance at the meetings of the said council on the legislative business of the said province, sufficient, at least, to defray the expences of travelling to the place where the said meetings shall be held, and of residing there during the time of the said meetings ; to the end, that at all the meetings of the said council, there may be a very full attendance of counsellors, who may concur in exercising the said high authority ; without which, the ordinances

they shall pass will not be very likely to obtain the reverence due to them from the people, nor meet with a chearful obedience.

And that the said council may be established for only a small number of years, to the end that the province may afterwards be governed by an assembly.

But above all, we beg leave to repeat our most earnest hopes and desires, that the establishment of the said legislative council (if it shall be resolved that such a one shall be established,) may be only for a small number of years, to the end, that, in case it shall hereafter appear to his majesty, that the situation and circumstances of the said province will admit of the summoning a general assembly of the freeholders of the same, we may at last reap the benefit of his most gracious promise to us in his proclamation and commissions above-mentioned, that we should be governed in the usual and approved method of his majesty's other colonies in America, by a governour, council, and assembly.

We therefore humbly hope, that the honourable house of commons will take our case into consideration, and permit us to be heard by our council at the bar of their house, to the several heads mentioned in this state of it, and to such other parts of the bill now before them, as we shall apprehend ourselves to be concerned in interest to object to, either on our own account, or in the behalf of our correspondents and friends, the Old British subjects of the crown now residing in the said province. And we have a firm reliance on the wisdom and justice of this honourable house, the representatives of the Commons of Great-Britain, for a satisfactory determination upon all the matters contained in this case, and upon the other points which may be submitted to their consideration by our counsel at their bar, and for the protection of our rights and liberties, as British subjects, who have acted under the sanction of his majesty's royal proclamation above-mentioned.

LORD MANSFIELD'S JUDGMENT IN CAMPBELL v. HALL, 1774.[1]

The case of the Island of Grenada ; in relation to the payment of four and one-half in the hundred of goods exported therefrom ; between Alexander Campbell, Esq., Plaintiff, and Wm. Hall, Esq., Defendant, in the Court of King's-Bench, before Lord Chief-Justice Mansfield : 15 George III., A.D. 1774.

[1] After comparing the versions of this Judgment as given in Cowper's "Reports," Lofft's "Reports," and Howell's "Complete Collection of State Trials" Vol. XX, it has been found that, with some slight variations, the selected version given by Mr. Wm. Houston in his "Documents illustrative of the Canadian Constitution" p. 79, may be safely followed, and is therefore substantially that given here. The general argument presented in this judgment on the status of the laws of a conquered country, and on the nature of the authority having the right to change them, may be compared with the arguments presented, in the case of the Province of Quebec, by the various law Officers of the Crown, alike in Britain and in Canada. In Vol. II, of the "Canadian Freeholder" Maseres discusses the whole judgment with his usual learning.

November 28.

The unanimous judgment of the Court was this day given by Lord Mansfield, as follows:

This is an action brought by the plaintiff, Alexander Campbell, who is a natural-born subject of Great Britain, and who, upon the third of May 1763, purchased lands in the island of Grenada ; and it is brought against the defendant, William Hall, who was collector for His Majesty at the time of levying the imposts, and of the action brought, of a duty of four and a half per cent. upon goods exported from the island of Grenada. The action is to recover a sum of money, which was levied by the defendant and paid by the plaintiff, as for this duty of four and a half per cent. upon sugars, which were exported from the island of Grenada, from the estate and by the consignment of the plaintiff.

The action is an action for money had and received ; and it is brought upon this ground, namely, that the money was paid to the defendant without consideration, the duty for which he received it not having been imposed by lawful or sufficient authority to warrant the same.

And it is stated in the special verdict[1] that the money is not paid over, but continues in the defendant's hands, by consent of the Attorney-General, for His Majesty, in order that the question may be tried.

The special verdict states Grenada to have been conquered by the British arms from the French King in 1762; that the island was ceded by capitulation ; and that the capitulation upon which it surrendered was by reference to the capitulation upon which the island of Martinico had been surrendered on the 7th of February, 1762.

The special verdict then states some articles of that capitulation, particularly the fifth, which grants that Grenada should continue to be governed by its own laws till His Majesty's pleasure be known. It next states the sixth article, where, to a demand of the inhabitants of Grenada requiring that they, as also the religious orders of both sexes, should be maintained in the property of their effects, moveable and immoveable, of what nature soever, and that they should be preserved in their privileges, rights, honours, and exemptions, the answer is that the inhabitants, being subjects of Great Britain, will enjoy their properties and the same privileges as in the other His Majesty's Leeward Islands.

Then it states another article of the capitulation, namely, the 7th article, by which they demand that they shall pay no other duties than what they before paid to the French King ; that the capitation tax shall be the same, and that the expenses of the courts of justice, and of the administration of government should be paid out of the King's demesne : in answer to which they are referred to the answer I have stated, as given in the foregoing article ; that is, being subjects they will be entitled in like

[1] Referring to the verdict of the jury before whom the case had been tried and who rendered a special verdict setting forth the facts in the case.

manner as the other His Majesty's subjects in the British Leeward Islands.

The next thing stated in the special verdict is the treaty of peace signed on the 10th of February, 1763 ; and it states the part of the treaty of peace by which the island of Grenada is ceded, and other articles which are not material.[1]

The next material instrument which they state is a proclamation under the Great Seal, bearing date the 7th of October, 1763, reciting thus :

"Whereas it will greatly contribute to the settling of our said islands "of which Grenada is one, that they be informed of our love and paternal "care for the liberties and rights of those who are, or shall be inhabitants "thereof ; we have thought fit to publish and declare by this our proclam- "ation, that we have by our letters patent under our Great Seal of Great "Britain, whereby our said Governments are constituted, given express "power and direction to our governors of our said colonies respectively, "that so soon as the state and circumstances of the said colonies will admit "thereof, they shall, with the advice and consent of our said council, call "and summon general assemblies, in such manner and form as is used in the "other colonies under our immediate government. And we have also given "power to the said governors, with the advice and consent of our said "council and assembly of representatives as aforesaid, to make, constitute, "and ordain laws, statutes, and ordinances for the public peace, welfare "and good government of our said colonies and the inhabitants thereof, "as near as may be agreeable to the laws of England, and under such "regulations and restrictions as are used in our other colonies."[2]

Then follow letters patent under the Great Seal, or rather a proclamation of the 26th of March, 1764, whereby the King recites, that he had ordered a survey and division of the ceded islands, as an invitation to all purchasers to come and purchase upon certain terms and conditions specified in that proclamation.

The next instrument stated in the verdict is the letters patent bearing date the 9th of April, 1764. In these letters there is a commission appointing General Melville Governor of the island of Grenada, with power to summon an assembly as soon as the situation and circumstances of the island would admit ; and to make laws in all the usual forms with reference to the manner of the other assemblies of the King's Provinces in America.[3]

The Governor arrived in Grenada on the 14th of December, 1764 ; before the end of 1765, the particular day not stated, an assembly actually met; but before the arrival of the Governor at Grenada, indeed, before his Commission, and before his departure from London, there is another instrument upon the validity of which the whole question turns, which instrument

[1] See Treaty of Paris, 1763, article 9, p. 102, and also p. 117.
[2] See Proclamation of 1763, p. 163. This is only a paraphrase and not a verbally correct transcript of the section quoted; see p. 165.
[3] That this Commission was practically the same as that for the Governor of Quebec is evident from the proceedings in connection with their draughting. See pp. 150 & 159.

contains letters patent under the Great Seal, bearing date the 20th of July, 1764, and reciting that in Barbadoes, and in all the British Leeward islands, a duty of four and a half per cent. was paid upon goods exported ; and reciting further :

"Whereas it is reasonable and expedient, and of importance to our "other sugar islands, that the like duties should take place in our said "island of Grenada ; we have thought fit, and our royal will and pleasure "is, and we do hereby, by virtue of our prerogative Royal, order, direct, "and appoint that an impost or customs of four and a half per cent. in "specie, shall, from and after the 29th day of September next ensuing "the date of these presents be raised and paid to us, our heirs and succes- "sors, for and upon all dead commodities of the growth or produce of our "said island of Grenada that shall be shipped off from the same, in lieu of "all customs and impost duties hitherto collected upon goods imported "and exported into and out of the said island, under the authority of his "Most Christian Majesty, and that the same shall be collected, &c." ; then it goes on with reference to the island of Barbadoes, and the other Leeward islands.

The jury find that in fact such duty of four and a half per cent. is paid to his Majesty in all the British Leeward islands. And they find several Acts of Assembly which are relative to the several islands, and which I shall not state, as they are public, and every gentleman may have access to them.

These letter patent of the 20th of July, 1764, with what I stated in the opening, are all that is material in this special verdict.

Upon the whole of the case this general question arises, being the substance of what is submitted to the Court by the verdict : "Whether these letters patent of the 20th of July, 1764, are good and valid to abrogate the French duties, and in lieu thereof to impose this duty of four and a half per cent., which is paid by all the Leeward islands subject to his Majesty."

That the letters are void has been contended at the bar, upon two points : (1) That although they had been made before the Proclamation of the 7th of October, 1763, the King by his prerogative could not have imposed them ; and (2) that, although the King had sufficient authority before the 7th of October, 1763, he had divested himself of that authority by the Proclamation of that date.

A great deal has been said, and authorities have been cited relative to propositions in which both sides exactly agree, or which are too clear to be denied. The stating of these will lead us to the solution of the first point.

I will state the propositions at large :

1. A country conquered by the British arms becomes a dominion of the King in the right of his crown, and therefore necessarily subject to the legislative power of the Parliament of Great Britain.

2. The conquered inhabitants once received into the conqueror's protection become subjects ; and are universally to be considered in that light, not as enemies or aliens.

3. Articles of capitulation, upon which the country is surrendered, and treaties of peace by which it is ceded, are sacred and inviolate, according to their true intent and meaning.

4. The law and legislation of every dominion equally affects all persons and property within the limits thereof, and is the true rule for the decision of all questions which arise there. Whoever purchases, sues, or lives there, puts himself under the laws of the place, and in the situation of its inhabitants. An Englishman in Ireland, Minorca, the Isle of Man, or the Plantations, has no privilege distinct from the natives while he continues there.

5. The laws of a conquered country continue in force until they are altered by the conqueror. The justice and antiquity of this maxim are incontrovertible ; and the absurd exception as to pagans mentioned in Calvin's case, shows the universality and antiquity of the maxim. That exception could not exist before the Christian era, and in all probability arose from the mad enthusiasm of the Crusades. In the present case the capitulation expressly provides and agrees that they shall continue to be governed by their own laws, until his Majesty's pleasure be further known.

6. If the King has power (and, when I say "the King," I mean in this case "the King without the concurrence of Parliament") to alter the old and to make new laws for a conquered country—this being a power subordinate to his own authority as a part of the supreme legislature and parliament—he can make none which are contrary to fundamental principles he cannot exempt an inhabitant from the laws of trade, or the authority of Parliament, or give him privileges exclusive of his other subjects; and so in many other instances that might be put.

The present Proclamation is an Act of this subordinate legislative power. If it had been made before the 7th of October, 1763, it would have been made on the most reasonable and equitable grounds, putting the island of Grenada as to duties on the same footing as the other islands.

If Grenada paid more duties, the injury would have been to her; if less, it must have been detrimental to the other islands ; nay, it would have been carrying the capitulation into execution, which gave the people of Grenada hopes that if any new duties were laid on, their condition would be the same as that of the other Leeward islands.

The only question which remains on this first point then is, whether the King of himself had power to make such a change between the 10th of February, 1763, the day the treaty was signed, and the 7th of October, 1763.

Taking the above propositions to be granted, he has a legislative power over a conquered country, limited to him by the constitution, and subordinate to the constitution and parliament. It is left by the constitution to the King's authority to grant or refuse a capitulation. If he refuses, and

puts the inhabitants to the sword, or exterminates them, all the lands belong to him ; and if he plants a colony, the new settlers share the land between them, subject to the prerogative of the conqueror. If he receives the inhabitants under his protection and grants them their property, he has power to fix such terms and conditions as he thinks proper. He is entrusted with making peace at his discretion ; and he may retain the conquest, or yield it up, in such condition as he pleases. These powers no man ever disputed, neither has it hitherto been controverted that the King might change part or the whole of the law or political form of government of a conquered nation.[1]

To go into the history of conquests made by the crown of England.

The alteration of the laws of Ireland has been much discussed by lawyers and writers of great fame at different periods of time ; but no man ever said the change was made by the parliament of England ; no man, unless perhaps Mr. Molyneux, ever said the King could not do it. The fact, in truth, after all the researches that have been made, comes out clearly to be as laid down by Lord Chief Justice Vaughan, that Ireland received the laws of England by the charters and commands of Henry II., King John, Henry III., and he adds an *et cetera* to take in Edward I., and the successors of the princes named. That the charter of 12 King John was by assent of a parliament of Ireland, he shows clearly to be a mistake. Whenever the first parliament was called in Ireland, that change in their constitution was without an act of the parliament of England, and therefore must have been derived from the King.

Mr. Barrington is well warranted in saying that the 12th of Edward I., called the "Statute of Wales," is certainly no more than a regulation made by the King as conqueror, for the government of the country, which, the preamble says, was then totally subdued ; and, however for purposes of policy he might think fit to claim it as a fief appertaining to the realm of England, he could never think himself entitled to make laws without assent of parliament to bind the subjects of any part of the realm. Therefore as he did make laws for Wales without assent of parliament, the clear consequence is that he governed it as a conquest : which was his title in fact, and the feudal right was but a fiction.

Berwick, after the conquest of it, was governed by charters from the crown, till the reign of James I., without interposition of parliament.

Whatever changes were made in the laws of Gascony, Guyenne, and Calais must have been under the King's authority; if by act of parliament, that act would be extant, for they were conquered in the reign of King Edward III. ; and all the acts from that reign to the present time are extant ; and in some acts of parliament there are commercial regulations relative to each of the conquests which I have named ; none making any change in their constitution and laws, and particularly with regard to Calais, which is

[1] See however the discussion of this point by Atty. Gen. Thurlow, p. 440.

alluded to as if its laws were considered as given by the Crown. Yet as to Calais, there was a great change made in the constitution: for the inhabitants were summoned by writ to send burgesses to the English parliament; and, as this was not by act of parliament, it must have been by the sole act of the King.

Besides the garrison there are inhabitants, property, and trade at Gibraltar ; the King, ever since that conquest, has from time to time made orders and regulations suitable to the condition of those who live, trade, or enjoy property in a garrison town.

Mr. Attorney-General[1] has alluded to a variety of instances, several within these twenty years, in which the King has exercised legislation over Minorca. In Minorca, it has appeared lately, there are and have been for years back a great many inhabitants of worth and a great trade carried on. If the King does it there as coming in the place of the King of Spain, because their old constitution continues (which by the by is another proof that the constitution of England does not necessarily follow a conquest by the King of England) the same argument applies here ; for before the 7th of October, 1763, the constitution of Grenada continued, and the King stood in the place of their former sovereign.

After the conquest of New York, in which most of the old Dutch inhabitants remained, King Charles II. changed its constitution and political form of government, and granted it to the Duke of York, to hold from his crown under all the regulations contained in the letters patent.

It is not to be wondered that an adjudged case in point is not to be found; no dispute ever was started before upon the King's legislative right over a conquest ; it never was denied in a court of law or equity in Westminster-hall, never was questioned in parliament. Lord Coke's report of the arguments and resolutions of the judges in Calvin's case lays it down as clear (and that strange extrajudicial opinion, as to a conquest from a pagan country, will not make reason not to be reason, and law not to be law as to the rest). The book says, that "if a King"—I omit the distinction between a Christian and an infidel kingdom, which as to this purpose is wholly groundless, and most deservedly exploded—"If a King comes to a kingdom by conquest, he may, at his pleasure, alter and change the laws of that kingdom; but, until he doth make an alteration of those laws the ancient laws of that kingdom remain ; but if a King hath a kingdom by title of descent, then, seeing that by the laws of that kingdom he doth inherit the kingdom, he cannot change those laws of himself without consent of parliament." It is plain that he speaks of his own country where there is a parliament. Also, "if a King hath a kingdom by conquest, as King Henry the Second had Ireland, after King John had given to them, being under his obedience and subjection, the laws of England for the government of that country, no succeeding King could alter the same without

[1] Edward Thurlow. See note 1, p. 437.

parliament." Which is very just, and it necessarily includes that King John himself could not alter the grant of the laws of England.

Besides this, the authority of two great names has been cited, who took the proposition for granted. And though opinions of counsel, whether acting officially in a public charge or in private, are not properly authority on which to found a decision, yet I cite them ;—not to establish so clear a point, but to shew that when it has been matter of legal enquiry, the answer it has received, by gentlemen of eminent character and abilities in the profession, has been immediate and without hesitation, and conformable to these principles. In 1722, the assembly of Jamaica refusing the usual supplies, it was referred to Sir Philip Yorke, and Sir Clement Wearg, what was to be done if they should persist in this refusal. Their answer is— "If Jamaica was still to be considered as a conquered island, the King had a right to levy taxes upon the inhabitants ; but, if it was to be considered in the same light as the other colonies, no tax could be imposed upon the inhabitants, but by an assembly of the island, or by an act of parliament." The distinction in law between a conquered country and a colony they held to be clear and indisputable ; whether, as to the case before them of Jamaica, that island remained a conquest or was made a colony, they had not examined. I have, upon former occasions, traced the constitution of Jamaica as far as there are books or papers in the offices ; I cannot find that any Spaniard remained upon the island so late as the Restoration ; if any, they were very few. A gentleman to whom I put the question on one of the arguments in this cause, said he knew of no Spanish names among the white inhabitants of Jamaica ; but there were amongst the negroes. The King, I mean Charles the Second, after the Restoration invited settlers by proclamation, promising them his protection. He made grants of land. He appointed at first a governor and council only ; afterwards he granted a commission to the governor to call an assembly. The constitution of every province immediately under the King has arisen in the same manner ; not by the grants, but by commissions, to call assemblies. And therefore, all the Spaniards having left the island, or having been killed or driven out of it, Jamaica from the first settling was an English colony, who under the authority of the King planted a vacant island, belonging to him in right of his crown; like the cases of the islands of St. Helena and St. John, mentioned by Mr. Attorney-General.

A maxim of constitutional law, as declared by all the judges in Calvin's case, and which two such men in modern times as Sir Philip Yorke and Sir Clement Wearg took for granted, will acquire some authority, even if there were anything which otherwise made it doubtful ; but on the contrary no book, no saying of a judge, no, not even an opinion of any counsel, public or private, has been cited ; no instance is to be found in any period of our history where it was ever questioned.

The counsel for the plaintiff undoubtedly labored this point from a diffidence of what might be our opinion on the second question. But upon the

second point, after full consideration, we are of opinion that before the letters patent of the 20th of July, 1764, the King had precluded himself from an exercise of the legislative authority which he had before by virtue of his prerogative over the island of Grenada.

The first and material instrument is the proclamation of the 7th of October, 1763. See what it is that the King there says, and with what view he says it ; how and to what he engages himself and pledges his word : "Whereas it will greatly contribute to the speedy settling our said new governments, that our loving subjects should be informed of our paternal care for the security of the liberty and properties of those who are, and shall become, inhabitants thereof ; we have thought fit to publish and declare by this our proclamation, that we have in the letters patent under our Great Seal of Great Britain, by which the said governments are constituted,given express power and direction to our governors of our said colonies respectively, that, so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our council, summon and call general assemblies" (and then follow the directions for that purpose). And to what end? "To make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies," of which this of Grenada is one, "and of the people and inhabitants thereof, as near as may be agreeable to the laws of England." With what view is the promise given? To invite settlers; to invite subjects. Why? The reason is given. They may think their liberties and properties more secure when they have a legislative assembly than under a governor and council only. The governor and council depending on the King, he can recall them at pleasure, and give a new frame to the constitution ; but not so of the other, which has a negative on those parts of the legislature which depend on the King. Therefore that assurance is given them for the security of their liberty and properties, and with a view to invite them to go and settle there after this proclamation that assured them of the constitution under which they were to live.[1]

The next act is of the 26th of March, 1764, which, the constitution having been established by proclamation, invites further such as shall be disposed to come and purchase, to live under the constitution. It states certain terms and conditions on which the allotments were to be taken, established with a view to permanent colonization and the increase and cultivation of the new settlement. For further confirmation of all this, on the 9th of April 1764, three months before the impost in question was imposed, there is an actual commission to Governor Melville, to call an assembly as soon as the state and circumstances of the island should admit.[2] —You will observe in the proclamation there is no legislature reserved to be

[1] Since Canada came equally with Grenada under the Proclamation of Oct. 1763, the chief features of this paragraph apply closely to the Canadian case and represent the claims so constantly put forth by the English element in their petitions.

[2] See preparations for the issue of Commissions for Governors Melville and Murray, among others; pp. 148 & 159.

exercised by the King, or by the governor and council under his authority, or in any other method or manner, until the assembly should be called : the promise imports the contrary ; for whatever construction is to be put upon it, (which perhaps it may be somewhat difficult to pursue through all the cases to which it may be applied) it apparently considers laws then in being in the island, and to be administered by courts of justice ; not an imposition of legislative authority between the time of the promise and of calling the assembly. It does not appear from the special verdict when the first assembly was called ; it must have been in about the year at farthest from the governor's arrival, for the jury find he arrived in December, 1764, and that an assembly was held about the latter end of the year 1765. So that there appears to have been nothing in the state and circumstances of the island to prevent calling an assembly.

We therefore think that, by the two proclamations and the commission to Governor Melville, the King had immediately and irrevocably granted to all who were or should become inhabitants, or who had or should have property, in the island of Grenada—in general to all whom it might concern—that the subordinate legislation over the island should be exercised by an assembly, with the consent of the governor and council, in like manner as in the other provinces under the King.

Therefore, though the right of the King to have levied taxes on a conquered country, subject to him in right of his crown, was good, and the duty reasonable, equitable, and expedient, and, according to the finding of the verdict, paid in Barbadoes and all the other Leeward islands ; yet by the inadvertency of the King's servants in the order in which the several instruments passed the office (for the patent of the 20th of July, 1764, for raising the impost stated, should have been first), the order is inverted, and the last we think contrary to and a violation of the first, and therefore void. How proper soever the thing may be respecting the object of these letters patent of the 26th of July, 1764, it can only be done, to use the words of Sir Philip Yorke and Sir Clement Wearg, "by the assembly of the island, or by an act of the Parliament of Great Britain."

The consequence is, judgment must be given for the plaintiff.

MASERES TO THE LORD CHANCELLOR.[1]

April 30th 1774.

My Lord, Inner Temple

I took the liberty of communicating to your Lordship some time ago the testimonies of Mr Le Brun,[2] the French lawyer at Quebeck, and Mr Du Mas Saint Martin,[3] the justice of peace at Montreal, concerning the

[1] Canadian Archives, Dartmouth Papers; M 385, p. 272.

[2] Referring to an extract from a letter of Mr. Le Brun, a lawyer of Quebec, dated 8th, Jan. 1774, "Containing the sentiments of himself and divers other Canadians concerning my draught of an act of parliament for settling the laws of the Province of Quebec." M 384, p. 240.

[3] Mr. Saint Martin was "a French protestant residing at Montreal (who was formerly a subject of the French King.)" A summary of his letter of Jan. 7th, 1774 is given in M 384, p. 243.

favourable reception my French memoire[1] had met with in Canada from the Canadians as well as the English. I now beg leave to add the testimony of Mr De Lisle, the protestant minister and Chaplain of the garrison at Montreal, a native of old France, and Colonel Christie, a Scotsman of an excellent understanding and easy fortune, and who has known Canada ever since the conquest of it, and who is proprietor of two valuable seigniories in it ; both to the same purpose. Mr De Lisle writes as follows—"Your answer to Mr Cugent is universally admired and applauded by both English and Canadians."

And Colonel Christie writes in these words. "I can assure you that your mémoire à la défense du plan d'acte &c. has given the greatest satisfaction to all your friends : and the priests themselves, and every sensible Canadian, allow you the merit you are justly intitled to for that performance." This expression of *priests themselves and every sensible Canadian* I cannot but look upon as a strong testimony in favour of the plan for settling the laws recommended and defended in that memoire—and therefore I conclude that the Canadians themselves do not look upon it as a wild or visionary scheme, oppressive to them, but as reasonable and practicable and beneficial to the province, and that they are contented with the degree of French law thereby continued amongst them, which consists of all their laws concerning the tenures of land, or the mutual rights and obligations of Seignior and tenant, and all their laws of conveyancing ; and with respect to marriages already contracted, and the offspring of them, their laws of dower and inheritance ; and with respect to future marriages the English law of dower and tenancy by the courtesy and other English laws relating to the civil effects of marriage, unless they shall provide otherwise by their marriage agreements, which they are impowered to do, and which it will be extremely easy for them to do, it being their general custom to make marriage agreements in writing, even where they have no property to settle ; and with respect to inheritance by children born of those future marriages, not the

[1] Referring to his "Mémoirs à la Défense d'un plan d'Acte de Parlement pour l'Etablissement de Loix de la Province de Quebec, Dressé par Mr. François Maséres, &c. &c. contre Les Objections de Mr. François Joseph Cugnet, &c. &c. A Londres, 1773." This, in turn, refers to Maseres' "Draught of an Act of Parliament for Settling the Laws of the Province of Quebec," of which he made two draughts. The first was issued in Aug. 1772; and of this he sent a copy to Lord Dartmouth, and also submitted it to the consideration of a number of others, English and French. Among the latter was M. De Lotbinière who criticised it quite freely. His criticism Maseres also sent to Lord Dartmouth, Jan. 7, 1773, with the following remarks—"These remarks I (with the privity and approbation of Mr. Thurlow, the Attorney-General,) desired Mr. de Lotbiniere to reduce to writing, though I knew they would principally be censures upon the things I had proposed. But I wished that both sides of the question might be known to his Majesty's Ministers, that they might be the better able to resolve ultimately upon what was just and reasonable." M 384, p. 36. On March 29th, 1773 he sent a new draught of the act to Lord Dartmouth with the accompanying letter:—"Mr. Maseres presents his respects to Lord Dartmouth, and desires his Lordship's acceptance of the copy herewith sent of a new draught of an act of Parliament for settling the laws of the province of Quebec, which he has prepared in consequence of some remarks made on the former draught by a Canadian gentleman of abilities, who has complained that some things in the former draught are asserted and proposed without sufficient grounds and reasons. To obviate this objection, the grounds and reasons of the principal things contained in this new draught are set forth at great length. The provisions themselves are much the same as in the former draughts, which had the honour of being approved by Sir Eardly Wilmot." March 29, 1773. M 384, p. 59. Sir John Eardley Wilmot, after filling several important legal offices, had just resigned from the position of Chief Justice of the Court of Common Pleas. The chief points dealt with by Maseres in his "Draught of an Act" &c. are given in this letter to the Lord Chancellor.

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English law of inheritance, but a certain intermediate law of inheritance, less different than the English from their own former law of inheritance, and particularly suited to that province and fitted to preserve in its original state that wise distribution of the lands in Canada which most people have thought worthy of Admiration, and to prevent the great inconveniences arising from the indefinite subdivision of small portions of land, which has long been a subject of complaint amongst them, and which the King of France endeavoured to remedy by another method so long ago as the year 1745.[1] And this new law of inheritance is also left subject to be contrould by the Canadians by their last wills or marriage-settlements, or other deeds in their life time. The rest of the plan establishes the English laws of the Admiralty, in order to preserve an uniformity on that subject between the Port of Quebeck and the other ports in America, and the English criminal law, which has been followed now for ten years with the general approbation of the Canadians, and the English law of Habeas Corpus in its most beneficial extent, which, I presume, cannot be disagreeable to any people. I hope your Lordship will excuse the trouble I have presumed to give you in stating these reasons in defence of a plan which I had bestowed much time and pains in preparing, and which appears to have been well received and approved by the Canadians themselves, who were the persons most likely to complain of it.

I remain your Lordship's most obedient and humble Servant.

FRANCIS MASERES.

Addressed:—To

The Right Honble Lord Apslie,

Lord High Chancellor of Great Britain.

MEMORANDA AND DRAUGHTS OF BILLS RELATING TO THE SUBJECT OF THE QUEBEC ACT.[2]

MEMORANDUM ON GOVERNMENT OF QUEBEC.[3]

A MEMORANDUM of things necessary for establishing Laws & Government in the Province of Quebec, either by Act of Parliament, Order of the King in Council or by the proposed Council at Quebec.

First, To get rid of the Proclamation of 1763 with the Commissions & Ordinances depending thereon and to restore the old Law and Constitution.

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[1] See note, p. 345.

[2] The following memoranda, suggestions, and draughts of bills relating to the Quebec Act have been found among the papers of Lord Dartmouth, under whom, as Colonial Secretary, the Quebec Bill took shape, and by whom it was finally introduced in the House of Lords on May 2nd, 1774. Most of these are without date, address, or signature, to indicate when, for whom, or by whom they were prepared, nor are they arranged in chronological order. However, by internal evidence, by comparisons between them, and with other documents, and with the aid of a few notes which passed between the parties chiefly concerned in framing the measure, it has been possible to identify most of them and trace the normal order of their development.

[3] Canadian Archives, M 385, p. 326. This memorandum would appear to have been the outcome of one or more of the conferences of an inner circle of the Ministry, with special advisers such as Carleton, in dealing with American policy. The features suggested are not in accordance

2dly To accommodate the Duties & Taxes paid at the time of the Conquest to the change of Dominion.

3dly To constitute a Governor and Council at Quebec with Power to make Laws and Ordinances under such restrictions as shall be thought necessary.

4thly To erect proper Courts of Judicature.

The nearer such Courts are to the Old ones in Form, the more agreeable they will be to the Inhabitants and more likely to have their Effect.

5. To make an Alteration in the mode of trying Capital Offences by allowing the Party the Benefit of being tried by Juries according to the Law of England so as no Judgement shall, after the Verdict given, be arrested upon any Objection of Informality.

6thly To abolish the use of the Torture & the Punishment of breaking upon the Wheel.

7thly To allow the Inhabitants the Privilege of the Common Law Writ of Habeas Corpus.

8thly To provide that all Incumbents be nominated by the Governor in Writing under his Hand and Seal, unless the Right of Patronage be in any private Person And that all Incumbents be irremoveable except for Misdemeanor to be tried by the Governor and Council.

9th To give all Ecclesiastical Jurisdiction in regard to Marriages, the Probate of Wills, granting Letters of Administation and other Civil Rights, except only in the Case of Tythes to the Courts of Law, and all Questions concerning Tythes to be determined by the Governor & Council.

10th Every Protestant Parishioner to pay his Tythes to the King's Officer towards providing a Maintenance for the Protestant Clergy.

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with any one of the Reports on the subject which had been made to the Government. Notwithstanding the numerous declarations, during the previous seven years, that the system of law and government in Quebec was on the point of being settled, the members of the Government chiefly responsible for the policy of the Quebec Act had not apparently given the matter very full consideration before the latter part of 1773, as may be gathered from the following statements. On Aug. 4th 1773, the Lord Chancellor sent the following note to Dartmouth, "The Chancellor's Compliments to Ld Dartmouth, takes the liberty to send him some Papers relative to Canada, which together with the Reports of the Kings Advocate, the Attorney Genl & the Sollicitor Genl will, he believes, enable his Lordship to form a plan of Government for that Province, fit to be laid before Parliament; & the Chancellor is happy in having received assurance from his Lordship that He means to undertake it." M 384, p. 178. On Aug 26th, Maseres writing to Dartmouth, says: "Mr. Maseres begs leave to acquaint his Lordship that on Tuesday se'ennight (which he apprehends to be since his Lordship left town,) he had the honour of waiting on Lord North by appointment at Bushey Park, to confer with him on the affairs of Quebec; and that Lord North seemed fully determined to do something towards the settlement of that Province in the next session of parliament, and particularly with respect to the establishment of a revenue and a legislature. His Lordship was clearly of opinion that this ought to be by a legislative council, and not an assembly; and he liked very well the proposal (contained in Mr. Maseres's draught of an act of parliament for establishing such a council,) that they should not be invested with the power of taxation, but only that of legislation, and that the necessary taxes should be laid by the Parliament of Great Britain.

"Lord Mansfield has also very lately declared an intention of reading over all the papers relating to the province of Quebec, and using his endeavours towards procuring a Settlement of it. And, about two months ago, Lord Chancellor made a similar declaration. And the leisure of this season of retirement seems to be favourable to this good design of their Lordships to give this subject a thorough consideration. If therefore, Lord Dartmouth should bring on the determination of this business in the privy council in the course of this vacation, it seems likely that he would meet with a great concurrence and support from his Majesty's other servants and counsellors, and that the whole settlement of that province might be prepared and digested in the manner necessary for the consideration of parliament by the beginning of next Session." M 384, p. 194.

SESSIONAL PAPER No. 18

FIRST DRAUGHT OF QUEBEC BILL.[1]

An act for granting for a limited time, therein ment[d] Powers of Legislation to the Governor & Council of His Majesty's Province of Quebec for the time being—

Whereas His Majesty was graciously pleased, by a Royal Proclamation bearing Date at St. James's the 7[th] Day of Oct[r] in the third year of His Majesty's Reign, to publish & declare, that certain Lands & Countries in America, therein mentioned & described, had been erected into a Province by the name of the Province of Quebec, & that the Gov[r] thereof was expressly empowered & directed, by Commission under the Great Seal, that so soon as the State & Circumstances of the said Province would admit thereof, he should, with the Advice & Consent of His Majesty's Council for the said Province, summon & call a General Assembly within the said Province in such manner & form as is used & directed in those Colonies & Provinces in America, which are under His Majesty's immediate Government, & that power had been also given to the said Governor with the consent of the Council & of the Representatives of the People so to be summoned & elected as aforesaid, to make constitute & ordain Laws, Statutes & Ordinances, for the public peace Welfare & good Government of the said Province & of the People & Inhabitants thereof. And Whereas the State & Condition of the said Province of Quebec has not hitherto been, is not now, nor is likely for some time to be such as to admit of a Lower House of Assembly or House of Representatives being convened, conformable to His Majesty's gracious Intentions declared in His Commission under the Great Seal & promulgated in the said Proclamation, by means whereof His Majesty's Subjects in the said Province are & must be exposed to great Inconveniences, the Welfare & Improvement of it obstructed, & a heavy burthen brought upon this Kingdom. In order therefore that these Wants & Defects may be remedied, & the Good Order and Welfare of the said Province provided for. Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual & Temporal and Commons in this present Parliament assembled & by the Authority of the same that from & after the Day of it shall and may be lawful for the Governor or Commander in Chief of the said Province of Quebec, for the time being, by and with the *Advice and* Consent of the Council of the said Province for the time being, or the Majority thereof to make constitute & ordain Laws, Statutes and Ordinances, for the public peace, Welfare & good Governm[t] of the said Province, and of the people & Inhabitants thereof, in all cases whatsoever. Provided always & be it enacted that the said Council shall consist of not more than 21 nor less than 12 members, &

[1] Canadian Archives, Dartmouth Papers, M 383, p. 51. This draught is evidently the work of Sol. Gen. Wedderburn whose ideas, chiefly, it expresses, as may be gathered from comparing it with his Report and especially with the "Abstract of such of the Regulations proposed in Mr. Solicitor Gen[ls] Report as it may be expedient to establish by Act of Parliament." See p. 434. This draught however was completely changed, both in form and content, under the direction of Lord Dartmouth, who in turn was influenced by different forces, personal and political.

that all Laws Statutes & Ordinances to be made under the Authority hereof, shall be so made & passed in ye s[d] Council when not less than 13 of the said Members shall be present. Provided nevertheless, and it is hereby enacted & ordained, by the Authority aforesaid, that no Law, Statute or Ordinance so to be framed & enacted as aforesaid by the said Governor or Commander in Chief & Council as aforesaid, by which the Life Limb or property of the Subject may be affected or any Duties or Taxes shall be imposed for the public use of the said Province, shall be of any force, validity or effect until approved by His Majesty, & such approbation signified by Order of His Majesty in Council. And be it further enacted by the Authority aforesaid, that Copies of all Laws, Statutes & Ordinances so to be framed & enacted by the said Governor Commander in Chief and Council as aforesaid shall, within three Months from the passing thereof (or sooner if opportunity offer) be transmitted duly authenticated under the Seal of the said Province by the said Governor or Command[r] in Chief for the time being to the Commissioners for Trade & Plantations, together with Accounts duly attested of all public Monies levied & expended in virtue of any Law, Statute or Ordinance as aforesaid, in which said Account shall be specified the particular Service to which the said Monies have been issued & applied. And be it further enacted by the Authority aforesaid, that the said Laws, Statutes & Ordinances as also the Accounts abovementioned of all public Monies levied and expended within the said Province of Quebec, shall be laid by the said Commissioners for Trade and Plantations before both Houses of Parliament, as soon as may be after the same shall have been received by them from the said Province as aforesaid. And be it further enacted by the Authority aforesaid that this Act shall continue & be in force for the space of fourteen Years, and from thence to the End of the next Session of Parliament unless His Majesty, His Heirs & Successors shall think fit before the expiration of that Term to direct a Lower House of Assembly or House of Representatives to be convened within the said Province of Quebec in which case the Legislative powers hereby conferred upon the Governor or Commander in Chief & Council, for the time being, shall cease & determine & be of none effect, any thing herein contained to the contrary thereof notwithstanding.

Endorsed:—Dra[t] of Bill—
Quebec

SECOND DRAUGHT OF THE QUEBEC BILL.[1]

An Act to remove the Doubts which have arisen relative to the Laws and Government of the Province of Quebec since His Majesty's Royal Proclamation of the Seventh day of October 1763.

[1] Canadian Archives, Dartmouth Papers, M 385, p. 300. This is the first draught of the Quebec Bill in which the wording of the Quebec Act as it finally passed begins to appear. That it was drawn by Wedderburn under instructions from Dartmouth, will appear from the following letter from Wedderburn to Dartmouth, dated March 2nd, 1774. "My Dear Lord, I have

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Whereas by the Conquest of Canada and the Cession thereof by the Definitive Treaty of Peace concluded at Paris on the Tenth day of February 1763, His Majesty became Intitled to the Sovereignty thereof, *as a Dominion belonging to the Crown of Great Britain, and might alter the Laws and Constitution of the said Province in such manner as He should think most agreeable to natural Justice and sound Policy.* And Whereas many other Countries and Territories, the greatest part whereof lay waste and uncultivated, were likewise ceded by the said Treaty to His Majesty :—And Whereas His said Majesty by His Royal Proclamation, bearing date the seventh day of October, in the third year of His Reign, Reciting that great part of the said acquisitions had been cast into four distinct and separate Governments, called Quebec, West Florida, East Florida, and Grenada. And that other parts had been annexed to the Governments of Newfoundland, Nova Scotia and Georgia, And further Reciting that it would greatly contribute to the speedy settling of the said new Governments that His Majesty's loving Subjects should be Informed of His Paternal Care for the Security of the Liberty and Property of those, who were and should become Inhabitants thereof, His Majesty thought fit to Publish and Declare, that He had in the Letters Patent under His Majesty's Great Seal of Great Britain, by which the said Governments were constituted, given express Power and direction to his said Governors of the said Colonies respectively that so soon as the state and circumstance of the said Colonies would admit thereof,

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attempted to express the alterations you were pleased to tell me were desired to be made in the Bill for Quebeck, But I am very doubtful whether I have succeeded in the Attempt. For I must confess my objections to the alterations and to some parts of the Bill, are much strengthened by the Consideration I have lately given to the subject.

"It seems very strange to have a Criminal Code in which for Treason the Law of England is followed; for other capital offences the Law of France (which avoids all definition) is to define the Crime, and the Law of England to prescribe the punishment and the mode of Trial; In offences not capital, the Crime, its Trial and punishment are all referred to the Law of France which lets in all their arbitrary punishments of cutting out Tongues, slitting noses &ce. I have had much conversation with Mr. Hey who says that the Idea of reviving any part of the French Criminal Law besides the difficulty of uniting It to the Law of England would be as little agreeable to the Canadians as it would to the English Inhabitants. That the former are in general very sensible of the advantages they derive from our Criminal Justice and make very good jurymen. He thinks there would be no objection to adopting the whole criminal Law of England because none has hitherto been discovered, but It would be still better to subject It to the revision of the Council to be established who might by degrees reject all the parts that are unfit for the constitution of Canada. I have with His assistance prepared a clause upon this Idea which is submitted to your Lordship." M 384, p. 251. (The remaining paragraphs of the letter are given as notes on the clauses of the draught to which they refer.) The first portion of the letter deals with the clauses of the second draught relating to the criminal law. The reference to "Clause A" in the margin of the criminal law clause of the draught, evidently designates the clause here referred to as prepared by Wedderburn and Hey, and which was substituted in the third draught for the clause to which Wedderburn objects. The retention of the French criminal law with perhaps such slight modifications as indicated in the second draught, was evidently the desire of Carleton, because the desire of the French Canadian Noblesse. The following year, on his return to Canada, he much regretted that he had ever favoured the concession to Canada of the Habeas Corpus and the English criminal law. (See Carleton to Dartmouth, June 7th, 1775, given below.) That it was the desire of representative members of the French Canadian Noblesse to have the French criminal, as well as civil law restored in full, is evident from the review of the Quebec Bill submitted by M. Lotbiniere. See p. 561.

If we compare this draught of the Quebec Bill with the various Reports of the Board of Trade, the Atty. Gen. of Quebec and the Sol., Atty., and Advt. Gen. of England, we find that, as declared by Knox, the Under Secretary of State for the Colonies, and a stout advocate of the Ministerial policy towards America, "thus it fell out, that after all the pains which had been taken to procure the best and ablest advice, the Ministers were in a great measure left to act upon their own judgment." See Knox's "The Justice and Policy of the late Act" &c., 1774, p. 9. This will partly account for the great changes in the measure between this draught and the form in which it was passed.

They should, with the advice and consent of the Members of His Majesty's Council, Summon and call General Assemblies within the said Governments respectively in such manner and form as was used and directed in those Colonies and Provinces in America, which were under His Majesty's immediate Government ; with Power to make constitute and ordain Laws, Statutes and Ordinances for the Public peace, Welfare and good Government of His Majesty's said Colonies and of the People and Inhabitants thereof ; as near as might be, agreable to the Laws of England and under such regulations and restrictions, as were used in other Colonies, and that in the mean time and until such Assemblies could be called as aforesaid, all Persons Inhabiting in or resorting to His Majesty's said Colonies, might confide in his Royal Protection for enjoying the benefit of the Laws of His Majesty's Realm of England. And that for such Purpose, His Majesty had given power under His Great Seal, to the Governors of His said Colonies respectively, to Create and Constitute (with the advice of His Majesty's said Councils respectively) Courts of Judicature and Publick Justice, within His Majesty's said Colonies, for the Hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity ; and, as near as might be agreable to the Laws of England ; with Liberty to all Persons, who might think themselves aggrieved by the Sentence of such Courts, in all Civil Cases, to appeal under the usual Limitations and restrictions to His Majesty in His Privy Council.

And Whereas such commissions were accordingly passed under the Great Seal of Great Britain to the respective Governors of the said Provinces and amongst the rest to the Governor of Quebec, requiring among other things, that each member of the Assemblies so to be called, should take the Oaths commonly called the Oaths of Allegiance Supremacy and Abjuration ; and to make and subscribe the Declaration against Transubstantiation, mention'd in an Act of Parliament made in the Twenty fifth Year of the Reign of King Charles the Second Intitled "An Act, for preventing Dangers which may happen by Popish Recusants."

And whereas by an Ordinance made and Published by the Governor and Council of Quebec, bearing date the seventeenth day of September in the Year of Our Lord One thousand seven Hundred and sixty four, several Courts of Criminal and Civil Jurisdiction were created, with Power to proceed according to the Laws of England, and agreably to Equity, having regard nevertheless to the Laws of England as far as the Circumstances and then present situation of things would admit.

And whereas several Commissions were, in pursuance thereof given and granted under the Great Seal of the said Province of Quebec to Chief Justices and other Judges and Justices, to hold the said Courts and exercise authority by virtue of the same.

And whereas great Doubts have arisen whether the whole Law of Canada was subverted and the Law of England introduced by the said Proclamation to take place as the Constitution of that Country till an As-

sembly should be called And also whether the Legislative Ordinances issued by the Governor and Council under the Kings Authority since the Proclamation were valid or void and by reason of such Doubts great confusion and uncertainty hath arisen and distracted the Minds of the People of the said Province.

And Whereas the Plan of Civil Government proposed by such Construction of the Proclamation and which hath been attempted to be carried into Execution in manner above mentioned is inapplicable to the Condition and Circumstances of the Province of Quebec which did contain at the Conquest thereof above One Hundred Thousand Inhabitants professing the Roman Catholick Religion and enjoying an established form of Constitution and a System of Civil and Criminal Law by which their Persons and Property had been for ages protected governed and ordered.

May it therefore please your most excellent Majesty, That it may be Enacted ; And it is hereby Enacted by His Most Excellent Majesty, by and with the advice and Consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by the Authority of the Same,[x a 1] That the said Proclamation so far as the same relates to the Civil Government & Administration of Justice of and in the said Province of Quebec and the Commissions have been granted to the Governors of the said Province of Quebec for the time being, and *the said Ordinance*[3 2] made by the said Governor and Council of Quebec *bearing date the Seventeenth day of September in the year of our Lord one Thousand, seven Hundred and sixty four; and all other Ordinances* relative to the Civil Government and Administration of Justice in the said Province and all Commissions to Judges and other officers, in pursuance thereof, be, and the same are hereby Revoked, Annulled and made void from and after the day of next.

And be it further Enacted by the Authority aforesaid, That His Majesty's Subjects of and in the said Province of Quebec, as the same is described in, and by the said Proclamation and Commissions And also of all the Territories part of the Province of Canada at the time of the Conquest thereof which His Majesty, His Heirs or Successors may think proper to annex to the said Government of Quebec may have hold and enjoy their Property, Laws, Customs, and Usages, in as large, ample and beneficial manner, as if the said Proclamation, Commissions Ordinances and other Acts & Instruments had not been made, and as may consist with their allegiance to His Majesty and subjection to the Crown and Parliament of Great Britain.[3]

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[1] These marks have no reference connected with them either in the margin or at the foot of the draught; but they evidently refer to an additional clause or clauses to be introduced by which the limits of the Province would be greatly extended. The proposal for an extension of the limits, which was largely adopted in the third draught of the bill, is given in the paper which follows this draught. See p. 541.

[2] This figure, which is in the original, seems to have no special significance, as the changes here introduced are but slight; it probably refers to some remark on the ordinance.

[3] Wedderburn, in his letter to Dartmouth, cited in note 1, p. 536, comments on this as follows:—"Mr. Hey mentioned to me two objections to the former part of the Bill which I think are material. The Proclamation, Commissions &ce are annuled and by the next Clause It is

And Whereas the Abolition of the use of the torture and of those severe punishments to which the Inhabitants of Canada were formerly exposed and the Introduction of a more mild and certain Law in criminal cases would be highly beneficial to them and they are truly sensible of the same, Be it therefore Enacted by the Authority aforesaid that no Crimes or Offences shall be High Treason or Misprision of Treason in the Province of Quebec and the dependencys thereof, But such as are high Treason or Misprision of High Treason by the Laws and Statutes now in force in Great Britain ; and that the said Laws and Statutes shall be used and observed in Cases of High Treason and Misprision of High Treason in all respects whatsoever. And be it further Enacted That in regard to all other offences for which by the Laws in force in Canada and on the said 13th September 1759 the Offender was liable to suffer the pains of Death the party accused shall be tried and acquitted or condemned and punished according to the Laws of England. Provided always that where by the Laws of England the benefit of Clergy is allowed upon any Conviction the Offender in such case shall only be fined and Imprisoned or bound to his good Behaviour, And Provided also That no Judgement shall after the Verdict given, be arrested upon any objection of Informality in the Indictment or Discontinuance in the Record.

vide[1] Class A.

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the occasions of which cannot now be foreseen nor without much Delay and Inconvenience provided for, without entrusting that Authority for a certain time and under proper Restrictions to Persons Resident there.

And Whereas it is at present inexpedient to call an Assembly Be it therefore Enacted by the Authority aforesaid That it shall and may be lawful for His Majesty His Heirs and Successors by *his or their Letters Patent*[2] *under the Great Seal of Great Britain* to constitute and appoint a Council for the affairs of the Province of Quebeck and its dependencys to

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declared 'that His Majesty's subjects in Canada shall enjoy their Laws and Customs as beneficially as if the Proclamation had not been made and as is consistent with their Allegiance and Subjection to the Crown and Parliament of Great Britain.' These words he thinks will much perplex the Canadian. Is his Religion lawful or tolerated, or unlawful. Are the rights of Succession, of Marriage, of Contract, that have accrued since 1764 and been enjoyed according to the Law of England rescinded, for the act is in some measure declaritory as to the sense of the Proclamation. What is to be the condition of the English Canadian? Is he or is he not included in the description of His Majesty's Subjects of and in Canada? He thinks it would be much better to express clearly what rights shall be restored to the Canadian and that He would be better satisfied with a less extensive and a more certain Provision for him." M 384, p. 253.

[1] This refers to the new clause drawn by Wedderburn and Hey, as indicated in note 1, p. 536, which was substituted for this section in the third draught, and which provided for the complete retention of the criminal law of England. See third draught, p. 546.

[2] Concerning this section, Wedderburn, in his letter to Dartmouth, cited in note 1, p. 536, says:—"The empowering His Majesty to create the Legislative Council by Letters Patent instead of appointing It directly by the Act of Parliament seems to me an immaterial Alteration, supposing that it is necessary (as I conceive it is) to describe in the Act the Powers and Authority of that Council. In either way the Nomination of the Members must be vested in the King and no greater Power in effect is acquired by the first mode than by the latter tho' in appearance the Power of erecting a Legislative Council seems to import more than the power of naming the Members and will from the appearance excite more opposition.

"The latter Clause I take to be unnecessary as I do not see how the Act restrains the King from appointing Judges and erecting Courts of Justice, I have therefore drawn It as a saving and not as an enacting Clause." M 384, p. 252.

consist of such Persons resident there not exceeding ( ) nor less than ( ) as His Majesty His Heirs and Successors shall be pleased to appoint and *of such other Persons resident there as upon the death removal, or absence, of any of the Members thereof, shall be nominated by His Heirs or Successors under His or their Sign Manual to supply the vacancy* ; Which Council so appointed and nominated or the major part thereof shall have full Power and Authority to make Ordinances for the Peace, Welfare and good Government of the said Province in all cases whatsoever, with the consent of His Majesty's Governor or Commander in Chief or in his Absence of the Lieutenant Governor for the time being.

Provided always That every Ordinance so to be made shall within ( ) months be transmitted by the Governor Commander in Chief or in his absence by the Lieutenant Governor and laid before His Majesty for his royal approbation and if His Majesty shall think fit to disallow thereof The same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at Quebec And Provided also That no Ordinance touching Religion or by which any Punishment may be Inflicted greater than fine or Imprisonment for Three Months, or by which any Duty, Tax, or Rate may be Levied shall be of any force or effect until the same shall have received His Majesty's Approbation And Provided also That no Ordinance shall be passed at any Meeting of the Council except between the day of and the day of unless upon some urgent occasion, in which Case every Member thereof resident at Quebeck or within

Miles thereof shall be personally summoned by the Governor or in His absence by the Lieutenant Governor to attend the same.

And be it further Enacted &c[a] That nothing herein contained shall extend or be construed to extend to prevent or hinder His Majesty His Heirs and Successors by his or their Letters Patent under the Great Seal of Great Britain from erecting, constituting and appointing such Courts of Criminal, Civil and Ecclesiastical Jurisdiction within and for the said Province of Quebeck and its dependencys and appointing from time to time the Judges and Officers thereof as His Majesty His Heirs and Successors shall think necessary and proper for the circumstances of the said Province.

Endorsed:—Dra[t]. of Bill

PROPOSED EXTENSION OF PROVINCIAL LIMITS.[1]

The Limits of the Government of Quebec as declared in the Proclamation of 1763 are as follows, Vizt. "bounded on the Labrador Coast by the River St. John, & from thence by a line drawn from the head of that

[1] Canadian Archives, Dartmouth Papers, M 385, p. 346. The boundary line as here proposed, indicates the limits within which it was desired to confine the English colonies. That it was largely adopted, despite the opposition of some supporters of the Ministry, will be seen from the third draught of the bill which follows. No clue is given as to the author of this proposal, but, as may be observed from a letter of Dartmouth to Cramahé of Dec. 1st, 1773, (See p. 485) this extension of the limits of the Province, like the Establishment of the Roman Catholic reli-

River thro' the Lake of St. John to the South end of the Lake Nipissing; from whence the said Line crossing the River St. Lawrence and the Lake Champlain in 45 Degrees of No Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea ; and also along the North Coast of the Bay des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosiers, and from thence crossing the Mouth of the River St. Lawrence by the West end of the Island of Anticosti terminates at the aforesaid River of St. John."

The Kings Servants were induced to confine the Government of Quebec within the above Limits, from an apprehension that there were no Settlements of Canadian Subjects, or lawful possessions beyond those Limits, and from a hope of being able to carry into execution a plan that was then under Consideration for putting the whole of the Interior Country to the Westward of our Colonies under one general control & Regulation by Act of Parliament.[1] It was also conceived that there was no claim of Possession on the Coast of Labrador to the East of the River St. John, and therefore from an apprehension that a valuable Cod Fishery might be carried on upon that Coast, it was annexed to the Government of Newfoundland.

The plan for the regulation of the Interior Country proved abortive & in consequence thereof an immense tract of very valuable Land within which there are many Possessions and actual Colonies existing under the Faith of the Treaty of Paris has become the Theatre of disorder & Confusion leading to causes that must affect the public Tranquility and weaken the Authority of this Kingdom, whilst those Colonies which exist under the Faith of the Treaty remain either without the protection or the control of Civil Government.[2]

It has also been discovered that there are a variety of claims to possessions upon the Coast of Labrador between the River St. John and the Straits of Belle Isle, and that by far the greatest part of that Coast is impracticable for a Cod Fishery and can only be used for that species of sedentary Seal Fishery which is in its nature inconsistent with the Regulations of the Fishery at Newfoundland.

In order therefore to obviate the dangers and disadvantages arising from the present defective state of the Interior Country. To give force and effect to the Power and Authority of the Crown within it. To give scope to the many Commercial advantages which may be derived from it. To extend the benefits of Civil Government to the Settlements of Canadian

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gion, was represented as a direct concession to the Canadian noblesse and clergy in response to their petition. For other features of the policy which harmonize with this, see note 1, p. 543 & note 1, p. 552.

[1] For the actual statement of the reasons for this policy, see the papers relative to the establishment of civil government in Quebec, p. 141 and p. 151.

[2] This is a matter on which a great variety of evidence is recorded and many different opinions expressed. The chief of these references are scattered throughout the letters and reports contained in the State Papers of the Q series, the Home Office Papers, and the Haldimand Papers, some of which are duplicates.

Subjects that have been formed in the different parts of it,[1] and to give Stability & advantage to the Sedentary Fisheries on the North side of the Gulph of St. Lawrence, it is proposed that the

Limits and Boundaries of the Government of Quebec shou'd be altered and enlarg'd in the following manner, that is to say,

That the said Government should be bounded on the side of His Majesty's other Colonies by a Line drawn from the Head of Bay Chaleurs (including the North side of the said Bay and all the Lands between that and the River St. Lawrence) along the High Lands which divide the Rivers which empty themselves into the River St. Lawrence from those which fall into the Atlantick Ocean until the said line reaches lake Champlain in 45 Degrees of No Latitude.

The said line to be continued from thence in a direct course to the first spring or Head of Hudson's River, and from thence in a direct course to the entrance of Lake Ontario from the said River St. Lawrence. That the said Line should pass from thence across the said Lake to the Mouth or entrance of the Strait of Niagara and should pass along the East side of the said Strait until it falls into the Northern Boundary of the Province of Pennsylvania, and from thence it should follow the course of the said Boundary line as well on the North as the West, to the Point where it intersects the River Ohio, and so following the course of the said River, from the said Point to its confluence with the River Mississippi. That the said Government should comprehend all the Coast of Labrador as far East as Esquimaux River & be bounded on the North by a Line drawn due West from the mouth of the said River to the southern Limits of the Territory granted to the Hudsons Bay Company and to follow the course of the said Limits as far as the River Mississippi, the said River to be the Boundary on the West from the point where it is intersected by the Southern Limits of the Territory granted to the Hudson's Bay Company as aforesaid, as low down as the Mouth of the River Ohio.

Endorsed :—Paper relative to the extension of the Limits of Quebec.

THIRD DRAUGHT OF THE QUEBEC BILL.[2]

An Act for making more effectual Provision for the Government of the Province of Quebec in North America ; and for removing Doubts which have arisen relative to the Laws and Constitution of the said Province since His Majesty's Royal Proclamation of the 7th of October 1763.

[1] In addition to the statements made in such letters as that of Dartmouth to Cramahé of Dec. 1st, 1773, (see p. 485) we find the statement of Wm. Knox the Colonial Under Secretary, after the Quebec Act was passed, that "the whole of the derelict country, is, by the first clause of the Act, put under the jurisdiction of the Government of Quebec, with the avowed purpose of excluding all further settlement therein, and for the establishment of uniform regulations for the Indian trade." "The Justice and Policy of the late Act" &c. p. 20. See also note 1, p. 552.

[2] Canadian Archives, Dartmouth Papers, M 385, p. 311. The alterations and additions by which the second draught was developed into the third are given in part in the notes on the second draught. Other explanations are furnished in the memorandum which follows this draught of the bill.

Whereas His Majesty by His Royal Proclamation bearing date the 7th day of October in the Third year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories and Islands in America Ceded to His Majesty by the Definitive Treaty of Peace concluded at Paris on the 10th day of Febry 1763 And Whereas by the Arrangements made by the said Royal Proclamation a very large part of the Territory of Canada, within which there were several Colonies and Settlements of the Subjects of France who claimed to remain therein under the faith of the said Treaty, was left without any Provision being made for the administration of Civil Government therein, and other parts of the said Country where sedentary Fisheries had been established and carried on by the subjects of France, Inhabitants of the said Province of Canada under Grants and Concessions from the Govern[t] thereof, were annexed to the Gov[t] of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such Fisheries. May it therefore please your most excellent Majesty that it may be enacted ; and it is hereby enacted by The Kings most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same That all the said Territories, Islands and Countries, heretofore part of the Province of Canada in North America, extending Southward to the banks of the River Ohio, Westward to the banks of the Mississippi and northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of England trading to Hudsons Bay, and which said Territories, Islands and Countries are within the limits of some other British Colony as allowed & confirmed by the Crown, or which have since the 10th Feby 1763, been made part of the Government of Newfoundland, be, and they are hereby annexed to, and part and parcel of the Province of Quebec as created and established by the said Royal Proclamation of the 7th of October 1763, for and during His Majesty's Pleasure ; And Whereas the Provisions made by the said Proclamation in respect to the Civil Government of the said Province of Quebec and the Powers & Authorities given to the Governor & other Civil Officers of the said Province by the Grants and Commissions issued in consequence thereof, have been found upon experience to be inadequate to the State & Circumstances of the said Province the Inhabitants whereof amounting at the Conquest to above One hundred Thousand Persons professing the Religion of the Church of Rome and enjoying an established form of Constitution & system of Laws by which their Persons and Property had been protected, governed and ordered for a long series of years from the first Establishment of the said Province of Canada, Be it therefore further enacted by the Authority aforesaid, That the said Proclamation so far as the same relates to the Civil Government & Administration of Justice of & in the said Province of Quebec, & the Commission under the Authority whereof the Government of the said Province is at present administered & all & every the Ordinance & Ordinances made by

the Governor & Council of Quebec for the time being relative to the Civil Government & Administration of Justice in the said Province and all Commissions to Judges & other Officers thereof, be, and the same are hereby revoked, annulled & made void from and after the Day of next.

Subject to the Kings Supremacy, as declared & established by an Act made in the first year of the Reign of Queen Elizabeth, over all the Dominions & Countrys which then did or thereafter should belong to the Imperial Crown of this Realm[1]

And be it further enacted by the authority aforesaid that His Majesty's subjects professing the Religion of the Church of Rome of & in the said Province of Quebec as the same is described in & by the said Proclamation and Commissions, and also of all the Territories part of the Province of Canada at the time of the Conquest thereof, which are hereby annexed during His Majesty's Pleasure to the said Government of Quebec may have, hold & enjoy the free Exercise of the Religion of the Church of Rome, *so far as* the same is not inconsistent with the Kings Supremacy as established by act of Parliament and that the Clergy & other Religious of the said Church may hold receive & enjoy their accustomed Dues & Rights *with respect to such Persons only as shall possess the said Religion*. Provided nevertheless that nothing herein contained shall extend or be construed to extend to the Disabling His Majesty's His Heirs or Successors from the making such Provision for the Maintenance & Support of a Protestant Clergy within the said Province as He or they shall from time to time think necessary & expedient.

And be it further enacted by the Authority aforesaid that all His Majesty's Canadian Subjects within the Province of Quebec, & the Territories thereunto belonging, may also hold, and enjoy their Property & Possessions together with all Customs & Usages relative thereto, and all other their Civil Rights in as large ample & beneficial manner as if the said Proclamation, Commissions, Ordinances & other Acts & Instruments had not been made, and as may consist with their Allegiance to His Majesty & Subjection to the Crown and Parliament of Great Britain.

For which purpose be it further enacted by the Authority aforesaid that, in all matters of controversy relative to the Property & Civil Rights of any of His Majesty's Subjects whether Canadian or English, Resort shall be had to the Laws of Canada and not the Laws of England for the Decision of the same, and all Causes that shall hereafter be instituted in any of the Courts of Justice to be appointed within & for the said Province by His Majesty, His Heirs & Successors, shall, with respect to such Property & Rights be determined by the Judges of the same agreeably to the said

[1] This clause which is written in the margin of this draught of the bill appears in the body of the fourth draught. See p. 572.

Laws & Customs of Canada & the several Ordinances that shall from time to time be passed in the said Province by the Gov[r] Lieut-Gov[r] or Commander in Chief by & with the advice & consent of the Legislative Council of the same to be appointed in manner herein before mentioned & by no other Laws Customs or Usages whatsoever.

Provided always that it shall & may be lawful to & for every Person in the said Province, whether Canadian or English, that is Owner of any Goods or Credits in the same, and that has a right to alienate the said Lands, Goods or Credits in his Life time by Deed of Sale, Gift or otherwise to devise or bequeath the same at his or her death by his or her last Will & Testament to such Persons, & in such manner as he or she shall think fit, any Law, Usage or Custom ; heretofore ; or now prevailing in the Province, to the contrary hereof in any wise notwithstanding. And provided also that nothing in this Act shall extend or be construed to extend to any Lands that have been granted by His Majesty or shall hereafter be granted by His Majesty His Heirs & Successors to be holden in free & common soccage[1] & that it shall & may be lawful to & for any of His Majesty's Subjects at his, her or their respective Ages of 25 years to change the Tenure of Estate held of His Majesty, His Heirs or Successors into free & common soccage by any deed executed in the presence of two Witnesses & presented to the Chief Justice of the Province who shall summon a Jury to assess the sum to be paid to His Majesty in lieu of the Profits of the Seigniory & upon Payment thereof shall direct the Deed to be enrolled & the same being enrolled the Land shall from thenceforth be held as Lands in free & common soccage are held by the Laws of England.

And Whereas the Certainty & Lenity of the Criminal Law of England & the Benefits and Advantages resulting from the use of it have been sensibly felt by the Inhabitants from an Experience of more than nine years, during which it has been uniformly administered. Be it therefore enacted by the Authority aforesaid. That the same shall continue to be administered, and shall be observed as Law in the Province of Quebec and its Dependencies as well in the description & quality of the Offence, as in the method of Prosecution & Trial, and the Punishments & Forfeitures thereby inflicted to the exclusion of every other rule of Criminal Law, or mode of Proceeding thereon which did, or might prevail in the said Province before the year of Our Lord 1764. Anything in this Act contrary thereof in any respect notwithstanding : Subject nevertheless to such Alterations & Amendments as the Gov[r] Lieut-Gov[r] or Commander in chief of the s[d] Province, by & with the advice & Consent of the Legislative Council of the said Province hereafter to be appointed, shall from time to time cause to be made therein in manner herein after directed.

And Whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of Quebec, the occa-

[1] The remainder of this clause is left out in the 4th draught, in accordance with the criticisms of Hillsborough and Carleton, as accepted by Dartmouth. See p. 573 & note 1, p. 554.

sions of which cannot now be foreseen, nor without much Delay & Inconvenience be provided for without intrusting that Authority for a certain time & under proper Restrictions to Persons resident there

And whereas it is at present inexpedient to call an Assembly; Be it therefore enacted by the Authority aforesaid that it shall & may be lawful for His Majesty, His Heirs and Successors by Warrant under His or Their Signet, or Sign Manual and with the Advice of the Privy Council to constitute and appoint a Council for the Affairs of the Province of Quebec & its Dependencies to consist of such Persons resident there, not exceeding (23) nor less than (17) as His Majesty, His Heirs and Successors shall be pleased to appoint, and upon the Death, Removal, or Absence of any of the Members of the said Council, in like manner to constitute & appoint such and so many other Person, or Persons as shall be necessary to supply the Vacancy, or Vacancies ; which Council so appointed & nominated, or the major part thereof shall have full Power and Authority to make Ordinances for the Peace, Welfare and good Government of the said Province, with the Consent of His Majesty's Governor, or in his absence of the Lieutenant Governor or Commander in Chief for the time being.

Provided always That every Ordinance so to be made shall within Months be transmitted by the Governor or in his Absence by the Lieutenant Governor or Commander in Chief for the time being, and laid before His Majesty for his Royal Approbation; And if His Majesty shall think fit to disallow thereof, the same shall cease & be void from the time that His Majesty's Order in Council thereupon shall be promulgated at Quebec : And provided also, That no Ordinance touching Religion, or by which any punishment may be inflicted greater than fine, or imprisonment for three Months shall be of any force or effect until the same shall have received His Majesty's Approbation : And provided also that no Ordinance shall be passed at any Meeting of the Council except between the day of and the day of unless upon some urgent occasion, in which Case, every Member thereof resident at Quebec, or within

Miles thereof shall be personally summoned by the Governor, or in his absence by the Lieutenant Governor, or Commander in Chief for the time being to attend the same.

And be it further enacted &c[a] That nothing herein contained shall extend or be construed to extend to prevent or hinder His Majesty His Heirs or Successors by His or their Letters Patent under the Great Seal of Great Britain from erecting, constituting & appointing such Courts of Criminal, Civil and Ecclesiastical Jurisdiction within and for the said Province and its Dependencies, and appointing from time to time the Judges & Officers thereof as His Majesty, His Heirs and Successors shall think necessary & proper for the Circumstances of the said Province.
Endorsed :—Dra[t] of Bill.

NOTES ON THIRD DRAUGHT OF QUEBEC BILL.[1]

The first preamble, and enacting clause of the present Bill are entirely new, and are introduced in order to annex to Quebec during The King's Pleasure the Territories therein described, which are now, for the greatest part, without either the protection or comptrol of any Government whatever and for the rest subjected to the incompetent and improper Jurisdiction of Newfoundland. This possibly might have in general been done by the sole authority of the Crown, but it is conceived that it would have been liable to doubts that cannot exist in the present mode which is conceived to be more effectual, & of more proper notoriety.

The whole preamble of the former Bill, reciting and condemning the Proclamation and other consequential Acts of Government is omitted, and in lieu of it a very short preamble introduced stating the general inadequacy of those Regulations to the present State and Circumstances of the Colony.

The first enacting Clause of the present Bill does not materially differ from the first enacting Clause of the other, the only difference is that it does not revoke any other Commission to the Governor but the one now existing.

The Second and Third Clauses of the present Bill are proposed by M[r] Hey[2] in the place of the Second Clause in the old Bill that restores to the Canadians generally their Property, *Laws*, Customs and Usages, including as it is conceived under the word *Laws* not only all Civil Rights, but also all Ecclesiastical Laws and Authorities incident thereto, which general Provision is restrained by the present Act to the free Exercise of the Romish Religion, as far as is consistent with the King's Supremacy, exempting Protestants from Payment of Tythes[3] and making the Laws and Customs of Canada in Civil Cases the Rule for Judgement in the Courts, under certain Limitations & Exceptions in respect to disposition of Property by will, and a mode of changing the Tenure of Lands held by Seigniory into Common Soccage.

The fourth Clause of the present Bill introduces the whole Criminal Laws of England which by the Corresponding Clause of the old Bill was only in part introduced & under Limitations.

The rest of the Clauses in both Bills respecting the Legislative Council are very much the same ; there is no material difference except by the new

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[1] Canadian Archives, Dartmouth Papers, M 385, p. 337. These notes are evidently by Sol. Gen. Wedderburn, as may be gathered from his criticisms on the second draught of the bill addressed to Lord Dartmouth; see note 1 p. 536. There was undoubtedly an intermediate draught of at least part of the bill, between the second and third draughts as here given, and it is to the intermediate form of certain clauses that some of these notes apply. It is evident, for instance, that the clause with reference to the Roman Catholic religion has been altered in the third draught from the form indicated in these notes; and we find that the alterations were due to the criticisms of Lord Mansfield upon the form in which the clause was left by Wedderburn and Hey. See below, note 1, p. 551.

[2] See note 3, p. 539.

[3] This is the portion to which, as left by Wedderburn and Hey, Lord Mansfield takes objection, as stated in the document which follows this, and which in consequence of his criticisms was altered in accordance with his suggestions, and appears in that altered form in the third draught.

Bill their appointment is to be by sign Manual in like manner as Councillors in other Colonies are appointed—by the former Bill they were to be appointed under the Great Seal of Great Britain, which besides deviating from the rule in other Cases is liable to other obvious Objections.
Endorsed :—Notes of Alterations in the Quebec Bill.

THE CLAUSE CONCERNING RELIGION IN THE THIRD DRAUGHT.[1]

The Proviso in favour of the Protestant Subjects of Quebec,[2] if it is intended to operate only as a saving to the clause which gives to the Canadians the free exercise of their Religion appears to me to be unnecessary—from a Church merely tolerated, as the Romish Church is by this Act, There can be little occasion to resort to any special protection, immunity or Privilege in behalf of any body, for existing only by Permission of the state, it can claim nothing, enforce nothing, exercise no controul or Authority over its own members but by consent, & it should seem useless to reserve to others by express Provision of Law, what cannot be taken from them but by their own choice & approbation.

In this light therefore the clause seems to be unnecessary.

But if it is intended to operate as a saving to the clause immediately preceding which gives the Canadians the Enjoyment of their ancient civil Rights customs and Usages, I apprehend it will be found an Exception as large as the Rule ; and leave it still in doubt, whether in a matter of civil Right the Canadian or English Law where they differ together with the form & mode of Proceeding, shall have the Preference. A Case which came before me in Judgement, & which is very likely to happen again will possibly put the objection I mean to state in a clear light before your Lordship.

By the custom of Paris which your Lordship, I presume, means to restore, the Mason Carpenter & other Artificers employed in building a House for another, Have, by an implied Contract between them & the owner for whom they build, of which they need only make a minute in a Notary's Office a mortgage upon the house which no incumbrance whatever prior or subsequent can Affect, but they may follow their demand thro an hundred mesne assignments into the hands of the present Possessor, & insist upon its being sold to pay them upon failure of the Person with whom they first contracted to build. should those Canadian Artificers bring an action in their usual form (wholly different from our own) against an Englishman who had purchased such a house for a Valuable consideration, might

[1] Canadian Archives, Dartmouth Papers, M 385, p. 340. It appears very probable, from the reference in the second paragraph, as well as from the whole tone and purpose of the proposals, that these criticisms were made by Lord Mansfield, and this is confirmed by his letter to Lord Dartmouth; see note 1, p. 551.

[2] This refers to the clause as draughted by Wedderburn and Hey; see above p. 545 and note 1, this page, and which as the result of this criticism was amended as it appears in the first clause of the third draught.

not He, & would not He be authorized to say, I will not answer in this mode of Process nor be bound by this Law? Every *Privilege Protection & advantage of what Nature* soever *or kind* that I am intitled to by the Laws & Constitution of the Realm of England, are expressly reserved to me, amongst which I reckon the Tryal by a Jury as an Eminent one. Let these men bring their Ejectment upon their mortgage Title & let the tresspass be enquired into by a Jury according to the good old forms & usages of the Realm of England, & not by Laws & in a mode of Proceeding unknown & not used there & which derogate from the Rights of a british subject.

What answer could be given to a demand of this kind which would not militate either with the Law or the Exception & who would say which was intitled to the Preference?

And with submission to your Lordship I do not see how it is possible to alter the Provisional clause to any advantage or find any form of words to reconcile it in substance with the other.

Whatever is to operate as an Exception to a positive general Law ought I apprehend to be clearly & expressly pointed out. it is your Lordships Intention (I presume) to revive the whole canadian Law in matters of a civil Nature, to make it the general law of the country to govern british as well as canadian Property by its Rules. if your Lordship intends any reservation with respect either to the Laws or the Administration of them, in favour of the british subjects, it must, I apprehend be clearly ascertained where & in what instances it should take Place. a General reservation like that contained in the clause will either operate nothing, or go to the destruction of the whole. for if the Legislature does not draw the Line I know not well how any Judge can do it.

The Legislative Council cannot do it. They cannot restrain or define privileges reserved by the Act of Parlt. nor as I should conceive even explain or determine them.

With great submission therefore to your Lordships better Judgment I conceive that clause must be wholly struck out or more particularly explained.

Will your Lordship permit me to add a word or two upon the subject of Religion as it is affected by this Act of Parliam[t].

That your Lordship intends only a bare Toleration for the R. C. Religion without any maintenance or support for the Clergy appears obvious from the manner of penning the statute.

The Clause which mentions & allows the Exercise of Religion is totally silent with respect to the Clergy or any right belonging to them & the cautious use of the words *civil Rights* in the clause that restores them to their old Laws & customs, seems to distinguish & exclude Ecclesiastical ones.

But will your Lordship (upon reflection) think it sufficient barely to tolerate a large & powerful Body of Men the R. C. Clergy in Canada, in the exercise of their Religion, without any other means of support than what

is to arise from the Voluntary contribution of their Parishioners, or does your Lordship apprehend any mischief or great inconvenience would arise from acknowledging their right to a decent & moderate maintenance under the sanction of a british Act of Parliament.

To say nothing of the discontent it would occasion will your Lordship think it quite consistent with the terms of the treaty—under which the property of the Clergy as well as Laity seems to have been reserved to the owners—& the Right to a decent support by Tithes seems to be as much the Property of the Clergy, as the seigneurial lands of the seigneurs, or any lay Property whatsoever of a Layman.

Power & Authority neither belongs to them by treaty nor is it consistent with a Protest[t] Govt. to suffer them to be retained—but subsistence seems to be their right, & under this Idea, I have taken the Liberty to make an additional clause, reserving the Tithe of Protestants for a Protestant clergy when his Majesty shall think proper to intitle any to demand it.[1]

For the manner in which the whole of what your Lordship gave me when I had the Honour to be with you on Saturday will then stand I refer your Lordship to the Paper itself

LORD HILLSBOROUGH'S OBJECTIONS TO THE QUEBEC BILL IN ITS PRESENT FORM[2]

First enacting Clause

The extention of the boundaries to the North so as to comprehend the Labrador coast his Lordship approves, but has insuperable objections to the extention to the Mississippi and

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[1] This is evidently the clause which has been incorporated into the third draught of the bill and which makes provision for the collection of tithes by the Roman Catholic clergy, and reserves the right to provide for a protestant clergy as well. On April 28th the following note was sent from Lord Mansfield to Lord Dartmouth:—"My Lord I rec[d] the inclosed Dr[t] last night at 10 o'clock—I have read it over. * * * * * * * * * * * * * I would suggest two alterations upon the Plan as it stands—One, which I have just put into the Dr[t] in a piece of Paper relative to the Supremacy—I mean it to avoid, what L[d] North & y[r] Lo[d] seemed very desirous of avoiding the necessity of the Canadian Gentlemen taking the Oath of Supremacy. The other relates to the Right of Tithes &[ce] depending upon the Man's professing the Popish Religion. Any man who denies professing it will be excused. They should pay to the Priest till the time is ripe for their paying to the Minister of some other Religion. * * * * * Your Lo[ps] most ob[t] hu. Serv[t] Mansfield." M 384, p. 268. To this Lord Dartmouth made the following reply

"L[d] Mansfield 1 May 1774

"My Lord

"I have laid before his Majesty's Confidential Servants the alteration your Lord[p] has been so good to suggest in the Quebec Bill, & they were unanimously of opinion to adopt the first relative to the Supremacy. The other they thought unnecessary, because it is his Majesty's Intention to make immediate provision for a Protestant Clergy, from the tithes of the Estates of Protestants so that none can elude the payment by denying the Profession of the Popish Religion. Their Lord[ps] thought fit to alter the stile of the clause w[ch] enacts the free exercise of the Romish Religion to make it declaritory -this, we conceive, will obviate any doubts that might have been created by it, & prevent any ill consequences, it might be thought likely to have in other parts of his Majesty's Dominions. With these alterations I hope the Bill will have your Lord[ps] approbation. I have the Honour to be &[ce] D." M 385, p. 278. The suggestion with reference to the oath of supremacy which Lord Mansfield had enclosed, is preserved in the Dartmouth Papers, endorsed "Clause (A)," M 385, p. 329. This was introduced as it stands into the Quebec Bill while going through Parliament, and provides a special oath for the Roman Catholics, instead of that of the Ist of Queen Elizabeth. See p. 557.

[2] Canadian Archives, Dartmouth Papers, M. 385, p. 356. As the accompanying letter will show, these objections of Hillsborough and Carleton to parts of the third draught of the Quebec Bill were stated in their present form by Wm. Knox, the Under Secretary of State for the Colonies. "My Lord In consequence of my having sent Lord Hillsborough a Copy of the Quebec Bill by Your Lordship's Orders, I had a message from his Lordship this morning and lest I should not be

Ohio. His reasons as far as I can recollect them are these. If an extention of the boundaries for the sake of Jurisdiction only over the Inhabitants was intended. There is no occasion for doing it by Act of Parliament as it is in the power of the Crown at present to give such jurisdiction if thought fit. And it is better to do it by the authority of the Crown *only*, because the jurisdiction so given may be limited & restrained in such manner as to answer all the purposes of Government and to avoid the inconveniencies with which a general extention or annexation will be attended.

Third & fourth, enacting Clauses.

But from the Terms in which the extention is made and what is said in the subsequent Clauses his Lordship supposes that it is intended to make Parliament *declare* that it is right and proper to *settle* The Territories annexed, for these Lands & Inhabitants are put in exactly the same state as those within the present Limits. An inducement is held out to the Roman Catholick subjects of Quebec and to all other Roman Catholics to remove into these annexed Countries by granting them the French Laws & Customs of Canada and the Free exercise of their Religion.

If this be the case every reason & argument his Lordship had to offer against the Ohio Grant urges him with Tenfold strength to oppose this proceeding.

2. Proviso of 5th Enacting Clause.

His Lordship objects to the granting of any Lands in the Province in free & common Soccage & refers to a Report of the Board of Trade for his reasons for continuing the french mode of Seigneuries as the most fit for the purposes of Government & as corresponding with the whole scope & purpose of the Bill.[1]

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able to find your Lordship before dinner I have put down upon the inclosed paper what I collect to be his sentiments respecting the Bill. I have also added what Gen[l] Carleton beggd I would mention from him to your Lordship respecting one Clause. I have ventured to point out such Amendments as would in my opinion render the Bill unexceptionable to both, and without injuring any of your Lordships purposes. I must however acquaint your Lordship that Lord Hillsborough said he had not sufficiently considered all other parts of the Bill having had it only yesterday afternoon, but that if he found anything else to wish alter'd, he would communicate his ideas thro' me to your Lordship as he desired to do those I have stated. Your Lordships very faithful and obedient Servant. Will Knox 30th April 1774." M 385, p. 270.

[1] As advocated by Carleton and others, and as frankly declared in the debates on the Quebec Bill, Canada and the whole of the western territory were to be reserved for the French and the Indians, though Hillsborough would reserve the west for the Indians alone. Knox thus gives expression to Hillsborough's views: "The Earl of Hillsborough was so fully persuaded of the dangerous consequences to this country and Ireland, of extending the settlements in the North American Colonies, that I had no occasion to make his Lordship any representations upon that subject. A very judicious measure which he had planned and promoted for confining them on the east side to the heads of the rivers which fall into the Atlantic Ocean, was then carrying into execution, and a boundary line was actually drawn and marked out at the backs of them all, from the Hudson's river to the Mississippi, and treaties were made with the Indians for restraining the settlements within it." Extra Official State Papers &c. London, 1789. Vol. 2, p. 43. It was, as Hillsborough says, the whole scope and purpose of the bill to satisfy the French Canadians, and by restoring French law and feudal tenures, and guaranteeing the Roman Catholic religion, to render the whole region as objectionable to the British settlers as possible. See Lord Dartmouth's reply which follows this document. As a sample of the statements of the Government's policy, made during the debates on the bill, the following may be taken from one of Wedderburn's speeches:—"I think there ought to be no temptation held out to the subjects of England to quit their native soil, to increase colonies at the expence of this country. If persons

3 Proviso to the 5th Clause.

These reasons are still more forceable for leaving out intirely the provision for converting Lands held in Seigneurie into Free & common Soccage. His Lordship thinks the Crown ought not to change those Tenures even when the Lands come into the hands of English subjects, much less relinquish all right of continuing them, and vesting a power in the French as well as English possessors to compel the Crown to change them at their pleasure.

3d Proviso to the 5th Clause.

General Carleton makes the same objections to these Proviso's as Lord Hillsborough does, and adds with respect to the latter That the French Seigneurs do not now desire to change their Tenures. That they should be sensible of the favour and ask it before it is granted. That even when that comes to be the case The Crown can change the Tenure whenever it is thought fit to do so without this clause and can make a proper discrimination in granting the favour to those only who by their conduct may merit it. That the Tenure by Seigneurie gives the Crown great power over the Seigneur, which power will be done away by changing the Tenure into free & common Soccage. That the Evil disposed Seigneurs will therefore be the first to avail themselves of the permission to change their Tenures in order to get rid of that power and be able to do mischief with less restraint.[1]

The Amendments which will be the consequence of adopting what appears to be the Ideas of Lord Hillsborough are these, To leave out in the Preamble from the words *Territory of Canada* to the words *where sedentary Fisheries*, And in the first enacting clause after the words *Canada in North America* insert *as described in the said Proclamation* and *extending northward to the Southern boundary &c.* leaving out the intermediate words *Southward to the Banks of the River Ohio, Westward to the banks of the Mississippy.*

These amendments will obviate the objections to the First Third & Fourth Enacting Clauses.

By leaving out the 3rd Proviso to the 5th enacting Clause General Carleton's objection will be wholly obviated and the most

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have gone thither in the course of trade, they have gone without any intention of making it their permanent residence: and, in that case, it is no more hardship to tell them, 'this is the law of the land,' than it would be to say to a man whose affairs induced him to establish himself in Guernsey, or in any other part of North America. With regard to the English who have settled there, their number is very few. They are attached to the country either in point of commercial interest or they are attached to it from the situations they hold under government. It is one object of this measure that these persons should not settle in Canada." Cavendish's Debates &c. p. 57.

[1] For Carleton's views as to the future of Canada and the necessity for restoring and maintaining the French feudal system there, see the following among other documents:—Carleton to Shelburne, Nov. 25, 1767, particularly the latter part, p. 284; also his letter of Dec. 24, 1767, p. 288; The Draught of an Ordinance &c., p. 292; Additional Instructions to Carleton in 1771, p. 422.

material part of Lord Hillsborough's will be also removed, for although they both *wish* the Lands may be hereafter granted in Seigneuries as heretofore yet they do not stand out to limit the Crown from granting them otherways if thought fit.[1]

DARTMOUTH'S REPLY TO HILLSBOROUGH.[2]

1 May
L[d] Hillsborough. 1774.

My DEAR LORD, M[r] Knox has stated to me your Lordp[s] two objections to the Canada Bill, w[ch] I propose to lay before the House of Lords tomorrow & I have communicated them to the Cabinet, who are unanimously of opinion that the extension of the Province to the Ohio & Mississipi, is an essential & very useful part of the Bill ; it provides for the establishment of civil government over many numerous settlements of french subjects, but does by no means imply an intention of further settling the Lands included within this extension, & if it is not wished that British Subjects should settle that country nothing can more effectually tend to discourage such attempts, w[ch] in the present state of that Country, y[r] Lord[p] knows very well, it is impossible to prevent. Y[r] Objection to The clause allowing a change of Tenure their Lordp[s] thought proper to come into & it is accordingly struck out of the Bill.

I am, my dear Lord,
Y[r] &c &c.
D.

THE QUEBEC BILL AS RETURNED FROM THE COMMONS.[3]

A BILL

Intituled

An Act for making more effectual Provision for the Government of *Quebec*, in *North America*.

N.B.—The Words printed within Crochets [ ], in [Old English] Letter, denote what was left out by the Commons, and those printed within a Parenthesis in (Italick), what have been inserted by them.

Whereas His Majesty, by His Royal Proclamation, bearing Date the Seventh Day of *October*, in the Third Year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries,

[1] As indicated in the reply of Lord Dartmouth which follows, the amendment indicated in this paragraph was made in the fourth draught of the bill, but the amendment with reference to the boundaries was not accepted.

[2] Canadian Archives, Dartmouth Papers, M 385, p. 276.

[3] Canadian Archives, Dartmouth Papers, M 385, p. 283. On June 13th the Quebec Bill was returned from the Commons with the following note:—"My Lord. I have Lord North's orders to transmit to Your Lordship the inclosed papers being the Quebec Act compleat as it passed the House of Commons this day, and have the Honour to be with the highest Respect My Lord Your Lordships Most Faithful and most obedient humble Servant John Robinson." 13[th] June 1774. M 385, p. 282. As the note at the head of this document indicates, by reference to the two sets of brackets, it expresses at once the fourth draught of the bill, as it was introduced to the House of Lords on May 2nd., and such amendments and additions to it as were made while it was passing through the Commons and were accepted by Lord North, the Prime Minister. In addition to the alterations already noticed in connection with the criticisms on the third draught

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Territories, and Islands in *America*, ceded to His Majesty by the definitive Treaty of Peace concluded at *Paris*, on the Tenth Day of *February*, One thousand seven hundred and sixty-three :

And whereas, by the Arrangements made by the said Royal Proclamation, a very large [Part of the Territory of Canada], (extent of Country), within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein, and [other] (certain) Parts of the [Said Country] (Territory of Canada), where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the nature of such Fisheries :
May it therefore please Your most Excellent Majesty,

That it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same. That all the [said] Territories, Islands, and Countries, [heretofore Part of the Province of *Canada*], in *North America*, [extending Southward to the Banks of] (belonging to the Crown of *Great Britain*, bounded on the South by a Line from the Bay of *Chaleurs*, along the High Lands which divide the Rivers that empty themselves into the River *Saint Lawrence*, from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*; Keeping the same Latitude directly West, through the Lake *Champlain*, until, in the same Latitude, it meets the River *Saint Lawrence* ; from thence up the Eastern Bank of the said River, to the Lake Ontario ; thence through the lake *Ontario*, and the River commonly called *Niagara* ; and thence along by the Eastern and South Eastern Bank of Lake *Erie*, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pensylvania*, in case the same shall be so intersected ; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the *Ohio* : But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank, until it shall arrive at that Point of the said Bank which shall be nearest to the North

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of the bill, and the introduction of a clause in the latter part of the bill relating to taxes or duties, a few other slight changes will be observed, as between the third and fourth draughts. Several of the changes made after the bill reached the Commons were undertaken by the Government itself, notably the new form of oath drawn up by Lord Mansfield and accepted by the Government. See note p. 551. In the Dartmouth Papers two other clauses are given, marked (b) and (c), which were incorporated into the bill during its sojourn in the Commons. That marked (b) is the last clause in the bill, and relates to the regulation of trade. That marked (c) is the clause in the fifth paragraph of the bill safeguarding any right, title, or possession acquired under any grants made prior to this act. The additions and amendments introduced into the bill while in the Commons, as well as the numerous criticisms and amendments rejected by the Government, can best be followed in Cavendish's Debates on the Bill, which is indispensable to a proper understanding of the policy of the measure.

Western Angle of the said Province of *Pensylvania*; and thence by a right Line to the said North Western Angle of the said Province; and thence along the Western Boundary of the said Province, until it strike) the River *Ohio*, (and along the Bank of the said River) Westward, to the Banks of *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of *England* trading to *Hudson's Bay*; and [which said] (also all such) Territories, Islands, and Countries, [are not within the Limits of some other *British* Colony, as allowed and confirmed by the Crown or] which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are hereby, during His Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty three.

(Provided always, and be it enacted, That nothing herein contained relative to the Boundary of the Province of Quebec, shall in any wise affect the Boundaries of any other Colonies.)

(Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter, any Right, Title, or Possession, derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining, but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.)

And whereas the Provisions made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec*, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof [amounting] (amounted) at the Conquest, to above [One hundred] (sixty-five) thousand Persons, professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution, and System of Laws, by which their Persons and Property had been protected, governed, and ordered, for a long Series of Years, from the first Establishment of the said Province of *Canada*; be it therefore further enacted by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of *May*, One thousand seven hundred and seventy five.

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And for the more perfect security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects professing the Religion of the Church of *Rome*, of, and in the said Province of *Quebec*, [as the same is described in and by the said Proclamation and Commissions, and also of all the Territories, Part of the Province of *Canada*, at the time of the Conquest thereof, which are hereby annexed, during His Majesty's Pleasure, to the said Government of *Quebec*], may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the Kings Supremacy, declared and established by an Act made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should, belong to the Imperial Crown of this Realm ; and that the Clergy of the said Church may hold, receive, and enjoy their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

Provided nevertheless, That [nothing herein contained shall extend, or be construed to extend, to the disabling] (it shall be lawful for) His Majesty, His Heirs or Successors, [from making] (to make) such Provision (out of the rest of the said accustomed Dues and Rights,) for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

(Provided always, and be it enacted, That no Person professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute, passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof, but that every such Person, who by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required to take and subscribe the following Oath before the Governor or such other Person, or in such Court of Record as His Majesty shall appoint, who are hereby authorised to administer the same ; *videlicet*,

"I A. B. do sincerely promise and swear, That I will be faithful, and "bear true Allegiance to His Majesty King *George*, and Him will defend "to the utmost of my Power, against all Traiterous Conspiracies and "Attempts whatsoever, which shall be made against His Person, Crown, and "Dignity ; and I will do my utmost Endeavour to disclose and make known "to His Majesty, His Heirs, and Successors, all Treasons, and Traiterous "Conspiracies and Attempts, which I shall know to be against Him, or "any of Them ; and all this I do swear, without Equivocation, mental "Evasion, or secret Reservation ; and renouncing all Pardons and Dis-"pensations from any Power or Persons whomsoever to the Contrary.

So help me God."

And every such Person who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and

been liable to, for neglecting or refusing to take the Oath required by the said statute, passed in the First Year of the Reign of Queen *Elizabeth*.)

And be it further enacted by the Authority aforesaid, That all His Majesty's *Canadian* Subjects within the Province of *Quebec*, the Religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages, relative thereto, and all other Civil Rights, in as large, ample and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as may consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of *Great Britain* ; and that in all Matters of Controversy relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada*, (as the Rule) for the Decision of the same ; and all Causes that shall hereafter be instituted in any of the Courts of Justice, to be appointed within and for the said Province by His Majesty, His Heirs and Successors, shall, with respect to such Property and Rights, be determined [by the Judges of the same], agreeably to the said Laws and Customs of *Canada*, [and the several] (until they shall be varied or altered by any) Ordinances that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief for the time being, by and with the advice and Consent of the Legislative Council of the same, to be appointed in Manner herein-after mentioned.

(Provided always, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs and Successors, to be holden in free and common Soccage.)

Provided [always] (also) That it shall and may be lawful to and for every Person that is Owner of any Lands, Goods, or Credits in the said Province, and that has a Right to alienate the said Lands, Goods, or Credits, in his or her Lifetime, by Deed of Sale, Gift or otherwise, to devise or bequeath the same, at his or her Death, or by his or her Last Will and Testament ; any Law, Usage, or Custom heretofore or now prevailing in the Province, to the Contrary hereof in any-wise notwithstanding.

[Provided also, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by his Majesty, his heirs and Successors, to be holden in free and common Soccage :] (Such Will being executed either according to the Laws of *Canada*, or according to the Forms prescribed by the Laws of *England*.)

And whereas the Certain and Lenity of the Criminal Law of *England*, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants from an Experience of more than Nine Years, during which it has been uniformly administered ; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law, in the Province of *Quebec*,

as well in the Description and Quality of the Offence, as in the Method of Prosecution and Trial, and the Punishments and Forfeitures thereby inflicted, to the Exclusion of every other Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four ; any Thing in this Act to the Contrary thereof in any Respect notwithstanding ; subject nevertheless to such Alterations and Amendments, as the Governor, Lieutenant Governor, or Commander in Chief for the Time being, by and with the advice and Consent of the Legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time, cause to be made therein, in Manner herein-after directed.

And whereas it may be necessary to ordain many Regulations, for the future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor without much Delay and Inconvenience be provided for, without intrusting that Authority for a certain Time, and under proper Restrictions, to Persons resident there :

And whereas it is at present inexpedient to call an Assembly ; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet, or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint ; and, upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner, to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies ; which Council, so appointed and nominated, or the major Part thereof, shall have [full] Power and Authority to make Ordinances for the Peace, Welfare, and good Government of the said Province, with the Consent of His Majesty's Governor, or, in his Absence, of the Lieutenant Governor, or Commander in Chief for the Time being.

Provided always, That nothing in this Act contained shall extend to authorise or impower the said Legislative Council to lay any Taxes or Duties within the said Province, (such Rates and Taxes only excepted, as the Inhabitants of any Town or District within the said Province, may be authorised by the said Council to assess, levy, and apply, within the said Town or District, for the Purpose of making Roads, erecting and repairing publick Buildings, or for any other Purpose respecting the local Convenience and Oeconomy of such Town or District.)

Provided also, and be it enacted by the Authority aforesaid, That every Ordinance so to be made shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant Governor or Commander in Chief for the Time being, and laid before His Majesty, for His Royal Approbation ; and if His Majesty shall think fit to disallow thereof, the same

shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at *Quebec*.—

Provided also, That no Ordinance touching Religion, or by which any Punishment may be inflicted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's approbation.

Provided also, That no Ordinance shall be passed, at any Meeting of the Council, (where less than a Majority of the whole Council is present, or at any Time), except between the First Day of *January*, and the First Day of *May*, unless upon some urgent Occasion ; in which Case, every Member thereof, resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence, by the Lieutenant Governor or Commander in Chief for the Time being, to attend the same.

And be it further enacted by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or their Letters Patent, under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts of Criminal, Civil, and Ecclesiastical Jurisdiction, within and for the said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper, for the circumstances of the said Province.

(Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating the Trade, or Commerce of His Majesty's Colonies and Plantations in *America* ; but that all and every the said Acts, and also all Acts of Parliament heretofore made, concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared to be, in Force, within the said Province of Quebec, and every Part thereof.)

Finis.

Endorsed :—A Bill,
(with emendations ;)
Intituled

An Act for making more effectual Provision for the Government of the Province of *Quebec*, in *North America*. (1774)

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CHOSES INDISPENSABLES A CONSIDÉRER, ET A DETERMINER FIXÉMENT, SI LE BILL PRÉSENTÉ POUR LA PROVINCE DE QUEBEC A LIEU.[1]

1° les propriétés de toute espéce, droits et priviléges, sont accordés aux canadiens, *autant*, est-il dit, que *cela peut etre d'accord avec leur* ALLÉGIANCE *envers Sa majesté, et avec leur* DÉPENDANCE *de la couronne et parlement de la grande Bretagne*. entend-on, par cette condition exprimée en termes aussi généraux, pouvoir les priver d'une partie de ces propriétés, droits et priviléges? cela n'est pas vraisemblable, puisque le tout leur est assuré, *sans une condition pareille*, du moment qu'ils sont devenu Sujets Britanniques. cependant de la laisser subsister sans necessité, seroit les exposer a mille troubles et chicanes qui en decouteroient (decouleroient?), et a leur ruine certaine par les frais qu'ils leur occasionneroient.

Si au contraire quelques parties de ces propriétés droits et priviléges se trouvent etre incompatibles avec cette clause, il convient de les déterminer fixément dans l'acte, et d'ordonner une indemnité equivalente a chaque objet Supprimé Comme incompatible avec la ditte condition.

2° il est dit que, dans toute matiere de démeslé relatif a la propriété et droits civils d'aucun des sujets de sa Majesté canadiens ou anglois, on aura recours aux loix du Canada &c. Et que *les Jugemens des cours établies dans la province seront rendus conformément a ces loix, et* AUX DIVERSES ORDONNANCES *qui de tems en tems seront passé par le gouverneur &c. &c.* le gouverneur aura-t-il le droit de faire des ordonnances, qui anéantissent les loix fondamentales du Canada? ou même qui, sans les anéantir, pourroient y porter quelques confusions capables de rendre incertains l'un ou l'autre de ces deux objects capitaux, et d'occasionner par milles chicanes qu'elles introduiroient la ruine assurée des citoïens, qu'opereroient les frais qui les accompagneroient? ou bien sera t-il borné a ne pouvoir faire que quelques réglemens de police, toujours parfaitement d'accord avec les lois fondamentales du païs, sans pouvoir jamais s'eloigner de l'esprit de ces loix: tel que le pouvoient le gouverneur général et Intendant de police au d[t] pais, pour les réglemens de moindre conséquence; et ces deux joints au conseil supérieur, pour ceux de plus grande importance. (QUI ETOIT LE SEUL DROIT QUI FUT ACCORDÉ A CES PUISSANCES *sous le gouvernement françois?* Si le pouvoir exprimé dans le premier cas est accordé a ce gouverneur, que deviendront les loix premieres du Canada, que le peuple désire et demande avec tant d'ardeur, les regardant comme sa sureté unique? que deviendra l'existence entiere des Canadiens qui s'y trouve indispensablement attachée? quel fruit retireront ils alors de ces loix, qu'on prétend leur accorder comme grace la plus spéciale, et qui pourront leur etre supprimée l'instant suivant?

[1] Canadian Archives, M 385, p. 385. This criticism of several important features of the Quebec Bill was made while the measure was passing through the Commons, and after M. De Lotbiniere had given his evidence before the House. (See Cavendish's Debates, p. 161.) It expresses the views of a representative member of the French-Canadian Noblesse—views which were frequently expressed in various forms during the period of legal and political confusion which followed the Quebec Act, especially from 1784 to 1791.

quelles ressources auront-ils pour se faire rendre Justice sur les promesses qu'on leur a fait, qui seules les ont déterminé a se rendre d'abord, et ensuite a se fixer généralement sous l'obeissance Britannique ? un objet aussi important merite certainement la plus grande attention, et exige que le pouvoir soit limité en sorte qu'il ne puisse troubler un seul de ces sujets, de quelque maniere que ce soit, dans aucunes parties de leur propriétés droits et priviléges.[1]

3° le Bill semble vouloir exprimer que c'est en grande partie, pour complaire au désir des Canadiens, qu'on supprime dans leur païs toutes loix et manieres de procéder pour le criminel a la françoise, et qu'on y substitue toutes les loix criminelles angloises et manieres de procéder en conséquence. ce que je puis annoncer pour certain est que, dans la demande qu'ils font de leur loix, il n'est nullement question d'en excepter celles qui regardent le criminel ; et ils n'auroient pas manqué de l'exprimer s'ils eussent préféré la loy angloise pour cette partie. on doit sentir que les loix civiles et les loix criminelles, etant formées et liées intimement l'une a l'autre par un même systhème, elles sont pour s'entreaider et s'appuïer réciproquement dans nombre de cas importans; qu'on ne sauroit conséquemment, de ce mélange de loix calculées sur des systhémes différens, espérer cette harmonie qui fait la baze de la sureté et tranquilité publique ; et qu'elles doivent nécessairement s'entre choquer et s'affoiblir l'une l'autre d'instant en instant. d'ailleurs le Canadien connoit la loy criminelle qui a été suivie des le principe dans son pais ; il ne connoitra peut etre jamais en entier celle qu'on y veut substituer, et est-il un Etat plus cruel pour l'homme qui pense, que de ne jamais savoir s'il est digne de louange ou de blame ?—il a cru s'appercevoir aussi que, par la loy angloise, il pouvoit etre regardé comme criminel, sur le simple serment d'un homme, sans qu'il y eut corps de délit ou crime démontré, qu'il pouvoit, par cela seul, etre poursuivi et puni en consequence, S'il ne peut parvenir a prouver *l'alibi* ; et l'accusateur peut aisément lui ôter cette ressource, pour peu qu'il l'ait observé quelque tems avant : danger le plus funeste qu'il soit même possible de se représenter, auquel le Canadien est certain de n'étre jamais exposé par la loy françoise—quant a l'instruction du procés, et aux preuves exigées pour Etablir son crime et lui en faire subir la peine, il sait que dans la maniere de procéder a la françoise les précautions les plus minutieuses sont observées avec le plus grand scrupule, et qu'il ne peut etre condamné que sur des preuves aussi claires que le jour. il ne reste donc a citer à l'avantage du criminel anglois, que *de se voir condamner par douze jurés que l'on nomme* SES PAIRES. pense-t-on que le Canadien, ou tout autre qui voudra se dépouiller des préjugés de l'enfance, se croira exposé a plus de partialité, a plus d'injustice, a moins de lumiere etant jugé par une Cour composée de douze juges choisis dans la classe des plus honnetes-gens de la province, tous au fait de la loy (*tel le qu'etoit composé le conseil supérieur de ce païs sous le gouvernement françois, et qu'on ne*

[1] See further discussion of the points here raised, in M. De Lotbiniere's expression of his views to Maseres, about this time: "Account of the Proceedings" &c. p. 175.

peut se dispenser de rétablir si l'on y veut assurer la vie. l'etat, et la fortune des citoïens.) croit-on, dis-je, qu'il se croira moins bien jugé par un conseil pareil, que s'il l'etoit par douze jurés pris au hazard, qui même quelque fois auroit pu etre menagés de loin ? au reste on ne voit aucun inconvenient à accorder ces Jurés a ceux qui les préfereroient.

4° le gouverneur &c paroit également authorisé par le bill a changer a volonté cette loy criminelle, avec pouvoir de créer de nouveaux crimes accompagnées des peines qu'il jugera a propos, d'y imposer ; *lesquelles loix seront en force dez le moment de leur création*, sans avoir besoin de l'approbation de Sa majesté, POURVU QU'ELLES NE TOUCHENT POINT A LA RELIGION, *et que les peines imposées se reduisent a un emprisonnement de trois mois*, OU UNE AMANDE. Voici un pouvoir bien exhorbitant accordé a ce gouverneur &c; qui, s'il est assez a droit pour faire passer ses loix au conseil privé, acquiert par là le droit de vie et de mort surtous ceux qui se trouveront résider dans le païs immense du Canada ; et qui, sans ce secour, peut les tenir emprisonnées l'espace de trois mois pour les moindres fautes, *ou même pour la* VIE, SI L'AMANDE (qui n'a point de terme limité) *est imposée de maniere que les délinquans ne puissent y satisfaire.*

Ceci mérite je le crois la plus grande attention ; au moins assez, pour que le plus grand nombre des habitans de la province soit préservé d'etre emprisonnés pour la vie, faute de pouvoir satisfaire aux amandes qui pourroient leur etre imposées.

5° Pour ce qui est du pouvoir législatif a établir en Canada, j'ai desja eu occasion, d'exposer a l'honorable chambre combien il etoit essentiel de ne le confier qu'aux plus gros propriétaires de *terres* dans ce païs:[1] seules propriétés reconnu pour solides dans quelque partie du monde que ce soit, toutes autres pouvant etre anéanties par le premier coup de feu ou quelques banqueroutes. on ne doit espérer que de ceux là l'attention et les soins nécessaires pour prévenir le mal, et procurer tous les avantages dont le païs peut etre susceptible, puis qu'ils sont les premiers et les plus interressés au bien de la chose : ce que l'on ne peut raisonnablement attendre de ceux qui n'ont aucun interet, ou de tres foibles, dans l'intéret publique; a plus forte raison, si leurs interets particuliers s'y trouvent opposés—ainsi, quelle que soit la forme de législation a établir en canada, il convient que Sa majesté soit suppliée de n'emploïer pour membres de législation que ceux de cette classe de premiers et plus gros propriétaires en fonds de terre, sans faire attention a la religion qu'ils professent ; leur différence d'opinions en fait de dogme n'influera en rien sur cet objet ; ce ne sera jamais que l'intéret qu'ils y auront qui les déterminera—qu'elle soit egalement supplié d'ordonner qu'il ne soit passé aucune loy, ordonnances, ou réglement de quelque importance, que dans le tems fixé pour la tenue générale du corps législatif ; et que, dans tous les cas, les membres de ce corps soïent assemblés en assez grand nombre pour s'assurer que le seul bien publique les decidera.

[1] See his examination before the House of Commons on June 3rd. Cavendish's Debates on the Quebec Bill, p. 161.

6e Enfin un point qui merite attention et qui doit etre fixé, est que la langue françoise etant générale et presque l'unique en Canada, que tout etranger qui y irent, n'aient que ses interets en vue, il est demontré qu'il ne peut les bien servir qu'autant qu'il s'est fortifié dans cette langue, et qu'il est forcé d'en faire un usage continuel dans toutes les affaires particulieres qu'il y traitte ; qu'il est de plus impossible, vû la distribution des etablissemens et habitations du pais, de pretendre a y introduire jamais la langue angloise comme générale—pour toutes ces raisons et autres non détaillées, il est indispensables d'ordonner que cette langue françoise soit la seule emploiée dans tout ce qui se traitera et sera arrêté pour toute affaire publique, tant dans les cours de justice, que dans l'assemblée du corps legislatif &c. car il paroitroit cruel que, sans nécessité, l'on voulut réduire presque la totalité des interressés a n'etre jamais au fait de ce qui seroit agité ou seroit arrêté dans le pais.

CHARTIER DE LOTBINIERE
tant en son nom, qu'au
nom des Canadiens.

Translation.

THINGS WHICH MUST OF NECESSITY BE CONSIDERED AND DEFINITELY SETTLED IF THE BILL PRESENTED FOR THE PROVINCE OF QUEBEC IS PASSED.

1st Properties of every description, rights and privileges are granted to Canadians, in so far, it is stated, as may be in accordance with their allegiance to His Majesty, and with their dependence on the crown and parliament of Great Britain. Are we to understand by this condition, which is expressed in such general terms, that they can be deprived of a part of these properties rights and privileges? That is not likely, since all these are guaranteed to them, without any similar condition, from the moment that they become British Subjects. Nevertheless to allow it to continue unnecessarily, would be exposing them to a thousand troubles and lawsuits which would flow therefrom, and to certain ruin from the expense which they would bring upon them.

If on the contrary some parts of the properties, rights and privileges are found to be incompatible with this clause, it is imperative that they should be definitely settled in the act, and that an indemnity should be allotted equivalent to every article Suppressed as incompatible with the said condition.

2d It is stated that in every matter of dispute, relating to the property and civil rights of any of his Majesty's Canadian or English subjects recourse should be had to the laws of Canada &c., And that the Judgments of the Courts established in the province shall be determined agreeably to the said laws, and to the different ordinances which shall from time to time

be passed by the governor, &c. &c. shall the governor have the right to make statutes which might annul the fundamental laws of Canada ? or even which, without annulling them, would give rise to confusion which might serve to obscure one or other of these two important points, and by the multitude of lawsuits which they would entail, bring about the certain ruin of the citizens, who would have to bear the expenses accompanying them. Should his process not rather be restricted to only making police regulations, and that strictly in accordance with the fundamental laws of the country without ever being able to step outside the spirit of these laws, such as the governor general and the Intendant of police were able to make in the aforesaid country for regulations of minor importance, and these two were in combination with the superior council for matters of greater importance. (This was the only right granted to these authorities under the French Government.) If the power mentioned in the first case is granted to the governor, what will become of the first laws of Canada, which the people desire and ask for with so much energy, looking upon them as their only safeguard ? What will become of the whole existence of the Canadians, which is so closely bound up with them ? What advantage will they derive from these laws, which they claim are granted them as a very special favour, and which may be taken away from them at any moment ? What power will they have to compel the administration of Justice by the fulfilment of the promises which have been made to them, which alone have decided them to submit in the first place, and afterwards to settle down in general under British rule ? So important a subject certainly deserves the greatest consideration, and demands that authority should be restricted in such a way that it cannot disturb one of these subjects, in any manner whatever, in any part of their possessions, rights or privileges.

3d It seems intended to show by the Bill, that it is in great measure to satisfy the desire of the Canadians, that all French laws and modes of procedure against criminals are to be suppressed in this country, and that the English laws and modes of procedure are consequently to be substituted. What I can state as positively certain is that in the request they are making for their own laws, there is no question of excepting such of them as relate to criminals ; and they would not have failed to express their opinion if they had preferred the English law on this point. They must feel that the civil code and the criminal code, being framed under the same system and intimately connected with each other are intended to mutually assist and strengthen each other in many important cases ; and that in consequence there is not to be expected from this admixture of laws framed on different systems, that harmony which forms the basis of security and public tranquility; and that they must necessarily conflict with each other and weaken each other from time to time. Besides the Canadian understands the criminal law which has been followed from the beginning in his country ; he will not perhaps fully understand the law which it is sought to substitute for it, and is there a more painful situation for the thoughtful man, than never

to know whether he is worthy of praise or blame. He believes too that he can see a danger, under the English law, of his being looked upon as a criminal, on the bare oath of a man, without any offence or crime being proved. That he may, for this cause only be prosecuted and punished in consequence, if he cannot succeed in proving an alibi ; and the accuser can easily deprive him of this resource, however little he may have watched him for some time past. This is the most fearful danger that it is possible to imagine, and one to which the Canadian is certain never to be exposed under the French law. As to the evidence during trial, and the proofs required to establish his guilt, and to subject him to the penalty for it, he knows that by the mode of procedure according to the French laws, the minutest precautions are most scrupulously observed, and that he can only be condemned on proofs as clear as the day. There remains then nothing else to cite to the advantage of the English criminal, except the satisfaction of being condemned by twelve jurors, who are called his peers. Is it credible that the Canadian, or anyone else who wished to divest himself of the prejudices of his childhood, would believe that he would be exposed to more favouritism, to more injustice, and to less enlightenment, if he were judged by a Court composed of twelve judges chosen from the class of the most honourable men in the province all thoroughly acquainted with the law (such as formed the superior council of this country under the French government, and which it is absolutely imperative to re-establish, if it is desired to insure the life, the property, and the fortune of the citizens). Is it credible, I say, that he would imagine himself less well judged by such a council, than if he were judged by twelve Jurors taken at haphazard, who might sometimes even have to be brought from a distance ? At any rate, there seems to be no objection to granting these Jurors to those who prefer them.

4th The governor &c. seems also to be authorized by the bill to change the criminal law at will, with authority to create new crimes accompanied by penalties which he shall judge proper to impose ; which laws will be in force from the moment of their creation, without any need of His Majesty's approval, provided that they are not touching Religion, and that the punishments inflicted shall be limited to imprisonment for three months, or to a fine. This is a most preposterous power to be granted to a governor &c., who, if he is clever enough to get the laws passed by the privy council, acquires thereby the right of life and death over all those who shall be living in the immense country of Canada ; and who, even without this reinforcement, may keep them imprisoned for the space of three months for the smallest faults, or even for life, if the penalty (which has no fixed limit) is imposed in such a way that the delinquent cannot pay it.

I consider that this point deserves the greatest attention, or at least enough to preserve the greater number of the inhabitants of the province from being imprisoned for life, for lack of ability to pay the penalties which may be imposed upon them.

SESSIONAL PAPER No. 18

5th With regard to the establishment of the legislative power in Canada, I have already had occasion to demonstrate to the honourable chamber how essential it was to entrust it only to the largest landed proprietors in this country ; owners only of properties recognized all over the world as solid, any others being liable to ruin from a sudden fire, or a few bankruptcies. It is from them only we can hope for the attention and care necessary to foresee the evil, and to develop all the natural advantages which the country may possess, seeing that they are the most prominent and the most interested in the success of the matter : this cannot reasonably be expected from those who have no interest, or only a very slight one in the public good, and especially if their personal interests are opposed to public ones. Thus, whatever form of legislation is to be established in Canada, it would be well that His Majesty should be implored to employ as members of the legislature, only those taken from the class of the principal and larger proprietors in the matter of land, without paying any attention to the religion which they profess ; their differences of opinion in point of dogma will have no influence on this object, it will never be anything but the interest they themselves have there, which will decide them. He should also be entreated to order that no law, ordinance, or regulation of any importance be passed, except at the time fixed for the general session of the legislative corps, and that in every case, the members of the corps should be assembled in large enough numbers to insure that it will be the public good only that will decide them.

And lastly, one point which deserves attention, and which ought to be settled, is that, the French language being the general, and indeed almost the only language used in Canada, it is obvious that no stranger, who goes there, having only his own interests at heart, can serve them well, except as he is thoroughly versed in this language, and obliged to make use of it continually in all the special matters which he has in hand ; that it is completely impossible taking into account the distance between the establishments and dwellings throughout the country, ever to attempt to introduce the English language generally; for all these reasons, and others not here specified, it is indispensable that the French language should be ordered to be the only one employed in everything which deals with, and shall be settled as a public business whether in the courts of justice or in the assembly of the legislative corps &c., for it would be a cruel thing to attempt to reduce unnecessarily almost all those interested in public affairs to the condition of never being acquainted henceforth with what shall be discussed or decided throughout the country.

CHARTIER DE LOTBINIERE
both in his own name as
well as in the name of
the Canadians.

QUERIES RE GOVERNMENT OF QUEBEC.[1]

QUERIES relative to the Government of Quebec for Consideration in case the Bill passes in its present shape.

Limits

The Line between Quebec and New York has not been continued further to the South West than Windmill Point, on Lake Champlain in Latitude 45.

Q. How is it to be settled with regard to these two Provinces between that station Point and the Boundary Line of Pennsylvania?

General Government & Courts of Justice.

Q. What is to be the number of the Council? In what Proportion are the Canadians to be admitted into that and other Offices, and under what Test?

Q. What Courts of Criminal and Civil Justice are to be established either generally for the Province at large, or separately for its subordinate Dependencies. Whether by Ordinances of the Legislative Council, by Commissions from the King, or by Commissions from the Governor?

Who are to be the Puisne Judges in such Courts? Are any, or if any, what number of Canadians to be appointed Judges? and under what Qualifications.

Of what other Offices is the Civil Establishment for the Province of Quebec and for its Dependencies to consist, and how are they to be appointed and paid?

Is the office of Provost Marshal to be revived, or are Sheriffs to be substituted in the place of it?

If the latter is to take place, what compensation is to be made to the present Provost Marshal, or to any other Patent Officer, whose Office shall happen to be discontinued?

In what manner is a Revenue to be established, and how appropriated & applied.

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[1] Canadian Archives, M 385, p. 332. These "Queries" were evidently framed before the Bill had assumed its final form. The section with reference to "Limits" was provided for by the preamble in the Commons. The number of Councillors was fixed at not less than 17 nor more than 23. The number of Canadians to be admitted to the Council was not dealt with, but the oath to be taken by the Roman Catholic members was prescribed. The question of the revenue was dealt with in the Quebec Revenue Act which follows the Quebec Act; see p. 576. Most of the other matters under the head of "Religion, Government, and Courts of Justice," are left for future consideration, some of them being covered in the Instructions to the Governor. John Pownall, one of the Under Secretaries of State for the Colonies, in a note to Lord Dartmouth of July 17th, 1774, has the following paragraph. "Gen[l] Carleton is gone; he recommends himself to your Lordships protection & requests your attention to the few memorandums & to the list of Persons recommended for Councillors which I have the honour to enclose." M. 385, p. 425. In quite another place we come upon a few notes endorsed "Gen[l] Carleton's Memoranda;" the chief item in which has reference to the subject of religion as indicated in these "Queries." "Gen[l] Carleton wishes that on the head of ecclesiastical arrangements, he may be left as much to himself as possible—he has no objection to having every idea and proposition of Government in regard thereto suggested in his Instructions; but he disapproves the suppression of any religious Communities except the Jesuits, and begs he may be left at liberty to use his own discretion in this very delicate business." M 384, p. 329.

SESSIONAL PAPER No. 18

Religion

What Provision is to be made for the Protestant Church in Canada?

What number of Ministers are to be appointed, and with what Stipend?

Where are they to reside, and are any of the Churches already established to be appropriated to the Use of the Protestants, or others to be erected?

If the latter what Fund will there be to defray such Expences?

Are all the Religious Orders and Communities of the Church of Rome, at present existing in Quebec, to be abolished? or which, if any of them, are to be continued, & under what Restrictions or Regulations.

If any are to be abolished is the Suppression to take effect immediately, or are they to cease when the present members of such Communities are deceased, and what is to become of the Estates & Revenues of such of the religious orders and Communities as are to be discontinued.

Are the secular Clergy to have any Episcopal or Vicarial Superintendance over them? If so, by what Authority, & under what Limitations and Restrictions is such Episcopal or vicarial Power to be established?

Is the Patronage of vacant Benefices to be delegated to the Governor, or in what other manner exercised, or by whom enjoyed, and how are the Clergy to be appointed?

Lastly, How are these and the many other essential Reforms and Regulations touching Ecclesiastical matters, and also the necessary arrangements touching Commerce, Revenue, Courts of Justice, and other Civil Establishments to be provided for? If by Ordinances of the Legislative Council, (which seems the most reasonable) ought not the Governor and Chief Justice to be directed immediately to prepare, with proper assistance, Drafts of such Bills as will be requisite for those Objects under the following general Heads.

Vizt.

1. A Bill for establishing Courts of Justice, & regulating their Proceedings.

2. A Bill for the better regulation of the Ecclesiastical Affairs of Quebec.

3. A Bill for regulating the Trade with the Indians, and preventing unlawful Settlements in the Interior Country.

4. A Bill for regulating the Fisheries on the Coast of Labrador.

5. A Bill for the more effectual Administration of Justice and Government in the several subordinate Districts in the interior Country.

THE QUEBEC ACT.[1]

ANNO DECIMO QUARTO

GEORGII III. REGIS.

CAP. LXXXIII.

An Act for making more effectual Provision for the Government of the Province of *Quebec* in *North America*.

Preamble.

Whereas His Majesty, by His Royal Proclamation, bearing Date the Seventh Day of *October*, in the Third Year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories, and Islands in *America*, ceded to His Majesty by the definitive Treaty of Peace, concluded at *Paris* on the Tenth Day of *February*, One thousand seven hundred and sixty-three : And whereas, by the Arrangements made by the said Royal Proclamation, a very large Extent of Country, within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein ; and certain Parts of the Territory of *Canada*, where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the Nature of such Fisheries : May it therefore please Your most Excellent Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That all the Territories, Islands, and Countries in *North America*, belonging to the Crown of *Great Britain*, bounded on the South by a Line from the Bay of *Chaleurs*, along the High Lands which divide the Rivers that empty themselves into the River *Saint Lawrence* from those which fall into the Sea, to a Point in Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*, keeping the same Latitude directly West, through the Lake *Champlain*, until, in the same Latitude, it meets the River *Saint Lawrence* ; from thence up the Eastern Bank of the said River to the Lake *Ontario* ; thence through the Lake *Ontario*, and the River com-

The Territories, Islands, and Countries, in *North America*, belonging to *Great Britain*.

[1] The text of the Act is taken from the original folio black letter form in which it was first issued by the King's Printers. "London: Printed by Charles Eyre and William Strachan, Printers to the King's Most Excellent Majesty. MDCCLXXIV."

monly called *Niagara* ; and thence along by the Eastern and South-eastern Bank of Lake *Erie*, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pensylvania*, in case the same shall be so intersected ; and from thence along the the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the *Ohio* : But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank until it shall arrive at that Point of the said Bank which shall be nearest to the North-western Angle of the said Province of *Pennsylvania*, and thence, by a right Line, to the said North-western Angle of the said Province ; and thence along the Western Boundary of the said Province, until it strike the River *Ohio* ; and along the Bank of the said River, Westward, to the Banks of the *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of *England*, trading to *Hudson's Bay* ; and also all such Territories, Islands, and Countries, which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are hereby, during His Majesty's Pleasure, annexed to, and made Part and Parcel of, the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three.

annexed to the Province of *Quebec*.

Not to affect the Boundaries of any other Colony;

Provided always, That nothing herein contained, relative to the Boundary of the Province of *Quebec*, shall in anywise affect the Boundaries of any other Colony.

nor to make void other Rights formerly granted

Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any Right, Title, or Possession, derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining ; but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.

Former Provisions made for the Province to be null and void after *May 1*, 1775.

And whereas the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec*, and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to above Sixty-five thousand Persons professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution and System of Laws, by which their

Persons and Property had been protected, governed, and ordered, for a long Series of Years, from the First Establishment of the said Province of *Canada*; be it therefore further enacted by the Authority aforesaid, That the said Proclamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of *May*, One thousand seven hundred and seventy-five.

Inhabitants of *Quebec* may profess the *Romish* Religion, subject to the King's Supremacy, as by Act I *Eliz.*

And, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That His Majesty's Subjects, professing the Religion of the Church of *Rome* of and in the said Province of *Quebec*, may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should belong, to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

and the Clergy enjoy their accustomed Dues.

Provision may be made by His Majesty for the Support of the Protestant Clergy.

Provided nevertheless, That it shall be lawful for His Majesty, His Heirs or Successors, to make such Provision out of the rest of the said accustomed Dues and Rights, for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

No person professing the *Romish* Religion obliged to take the Oath of I *Eliz.*

Provided always, and be it enacted, That no Person, professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof; but that every such Person who, by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following Oath before the Governor, or such other Person in such Court of Record as His Majesty shall appoint, who are hereby authorized to administer the same; *videlicet*,

but to take, before the Governor, &c., the following Oath.

The Oath.

I A. B. *do sincerely promise and swear, That I will be faithful, and bear true Allegiance to His Majesty King* GEORGE, *and him*

will defend to the utmost of my Power, against all traiterous Conspiracies, and Attempts whatsoever, which shall be made against His Person, Crown, and Dignity; and I will do my utmost Endeavour to disclose and make known to His Majesty, His Heirs and Successors, all Treasons, and traiterous Conspiracies, and Attempts, which I shall know to be against Him, or any of Them; and all this I do swear without any Equivocation, mental Evasion, or secret Reservation, and renouncing all Pardons and Dispensations from any Power or Person whomsoever to the Contrary.

So Help Me GOD.

Persons refusing the Oath to be subject to the Penalties by Act I *Eliz.*

And every such Person, who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and been liable to for neglecting or refusing to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*.

His Majesty's *Canadian* Subjects (religious Orders excepted) may hold all their Possessions, *etc.*

And be it further enacted by the Authority aforesaid, That all His Majesty's *Canadian* Subjects, within the Province of *Quebec*, the religious Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all other their Civil Rights, in as large, ample, and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as may consist with their Allegiance to His Majesty, and Subjection to the Crown and Parliament of *Great Britain*; and that in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada*, as the Rule for the Decision of the same; and all Causes that shall hereafter be instituted in any of the Courts of Justice, to be appointed within and for the said Province, by His Majesty, His Heirs and Successors, shall, with respect to such Property and Rights, be determined agreeably to the said Laws and Customs of *Canada*, until they shall be varied or altered by any Ordinances that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, by and with the Advice and Consent of the Legislative Council of the same, to be appointed in Manner herein-after mentioned.

and in Matters of Controversy, Resort to be had to the Laws of *Canada* for the Decision.

Not to extend to Lands granted by His Majesty in common Soccage.

Provided always, That nothing in this Act contained shall extend, or be construed to extend, to any Lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His Heirs and Successors, to be holden in free and common Soccage.

Owners of Goods may alienate the same by Will, &c.

Provided also, That it shall and may be lawful to and for every Person that is Owner of any Lands, Goods, or Credits, in the said Province, and that has a Right to alienate the said Lands, Goods, or Credits, in his or her Life-time, by Deed of Sale, Gift, or otherwise, to devise or bequeath the same at his or her Death, by his or her last Will and Testament; any Law, Usage, or Custom, heretofore or now prevailing in the Province, to the Contrary hereof in any-wise notwithstanding; such Will being executed, either according to the Laws of Canada, or according to the Forms prescribed by the Laws of *England*.

If executed according to the Laws of *Canada*.

Criminal Law of *England* to be continued in the Province.

And whereas the Certainty and Lenity of the Criminal Law of *England*, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered ; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of *Quebec*, as well in the Description and Quality of the Offence as in the Method of Prosecution and Trial ; and the Punishments and Forfeitures thereby inflicted to the Exclusion of every other Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four ; any Thing in this Act to the Contrary thereof in any Respect notwithstanding ; subject nevertheless to such Alterations and Amendments as the Governor, Lieutenant-governor, or Commander in Chief for the Time being, by and with the Advice and Consent of the legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time, cause to be made therein, in Manner herein-after directed.

His Majesty may appoint a Council for the Affairs of the Province;

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain Time, and under proper Restrictions, to Persons resident there : And whereas it is at present inexpedient to call an Assembly ; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for His Majesty, His Heirs and Successors, by Warrant under His or Their Signet or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than Seventeen, as His Majesty, His Heirs and Successors, shall be pleased to appoint ; and, upon the Death, Removal, or Absence of any

which Council may make Ordinances, with Consent

of the Governor.

of the Members of the said Council, in like Manner to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies ; which Council, so appointed and nominated, or the major Part thereof, shall have Power and Authority to make Ordinances for the Peace, Welfare, and good Government, of the said Province, with the Consent of His Majesty's Governor, or, in his Absence, of the Lieutenant-governor, or Commander in Chief for the Time being.

The Council are not impowered to lay Taxes, Publick Roads or Buildings excepted.

Provided always, That nothing in this Act contained shall extend to authorise or impower the said legislative Council to lay any Taxes or Duties within the said Province, such Rates and Taxes only excepted as the Inhabitants of any Town or District within the said Province may be authorised by the said Council to assess, levy, and apply, within the said Town or District, for the Purpose of making Roads, erecting and repairing publick Buildings, or for any other Purpose respecting the local Convenience and Oeconomy of such Town or District.

Ordinances made to be laid before His Majesty for His Approbation.

Provided also, and be it enacted by the Authority aforesaid, That every Ordinance so to be made, shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, and laid before His Majesty for His Royal Approbation ; and if His Majesty shall think fit to disallow thereof, the same shall cease and be void from the Time that His Majesty's Order in Council thereupon shall be promulgated at *Quebec*.

Ordinances touching Religion not to be in Force without His Majesty's Approbation.

Provided also, That no Ordinance touching Religion, or by which any Punishment may be inflicted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's Approbation.

When Ordinances are to be passed by a Majority.

Provided also, That no Ordinance shall be passed at any Meeting of the Council where less than a Majority of the whole Council is present, or at any Time except between the First Day of *January* and the First Day of *May*, unless upon some urgent Occasion, in which Case every Member thereof resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, to attend the same.

Nothing to hinder His Majesty to constitute Courts of Criminal, Civil, and Ecclesiastical Jurisdiction.

And be it further enacted by the Authority aforesaid, That nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or Their Letters Patent under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts of Criminal, Civil, and Ecclesiastical Jurisdiction within and for the

said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the Circumstances of the said Province.

All Acts formerly made are hereby inforced within the Province.

Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating, the Trade or Commerce of His Majesty's Colonies and Plantations in *America*; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared to be, in Force, within the said Province of *Quebec*, and every Part thereof.

Finis.

QUEBEC REVENUE ACT.[1]

Anno Decimo Quarto

GEORGII III. REGIS.

Cap. LXXXVIII.

An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of *Quebec*, in *America*.

Preamble.

Certain Duties imposed by His most Christian Majesty upon Rum, Brandy, *etc.* imported into *Quebec*.

Whereas certain Duties were imposed, by the Authority of His most Christian Majesty, upon Wine, Rum, Brandy, *Eau de Vie de Liqueur*, imported into the Province of *Canada*, now called the Province of *Quebec*, and also a Duty of Three Pounds *per Centum ad Valorem*, upon all dry Goods imported into, and exported from, the said Province, which Duties subsisted at the Time of the Surrender of the said Province to Your Majesty's Forces in the late War: And whereas it is expedient that the said Duties should cease and be discontinued; and that in Lieu and in Stead thereof, other Duties should be raised by the Authority of Parliament, for making a more adequate Provision for defraying the Charge of the Administration of Justice, and the Support of Civil Government in the said Province: We, Your Majesty's most dutiful and loyal Subjects, the Commons of *Great Britain*, in Parliament assembled, do most

[1] The text of this, as also of the following Act, is taken from the original folio black letter form in which it was first issued by the King's Printers, Eyre and Strachan.

humbly beseech Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Fifth Day of *April*, One thousand seven hundred and seventy-five, all the Duties which were imposed upon Rum, Brandy, *Eau de Vie de Liqueur*, within the said Province, and also of Three Pounds *per Centum ad Valorem*, on dried Goods imported into, or exported from, the said Province, under the Authority of His most Christian Majesty, shall be, and are hereby discontinued ; and that in Lieu and in Stead thereof, there shall, from and after the said Fifth Day of *April*, One thousand seven hundred and seventy-five, be raised, levied, collected, and paid, unto His Majesty, His Heirs and Successors, for and upon the respective Goods herein-after mentioned, which shall be imported or brought into any Part of the said Province, over and above all other Duties now payable in the said Province, by any Act or Acts of Parliament, the several Rates and Duties following ; that is to say,

after *April* 5, 1775, to be discontinued within the Province.

and in Stead of which the following Duties to be paid to His Majesty.

The Rates.

For every Gallon of Brandy, or other Spirits, of the Manufacture of *Great Britain*, Three-pence.

For every Gallon of Rum, or other Spirits, which shall be imported or brought from any of His Majesty's Sugar Colonies in the *West Indies*, Sixpence.

For every Gallon of Rum, or other Spirits, which shall be imported or brought from any other of His Majesty's Colonies or Dominions in *America*, Nine-pence.

For every Gallon of Foreign Brandy, or other Spirits, of Foreign Manufacture, imported or brought from *Great Britain*, One Shilling.

For every Gallon of Rum, or Spirits, of the Produce or Manufacture of any of the Colonies or Plantations in *America*, not in the Possession or under the Dominion of His Majesty, imported from any other Place, except *Great Britain*, One Shilling.

For every Gallon of Molasses and Syrups, which shall be imported or brought into the said Province, in Ships or Vessels belonging to His Majesty's Subjects in *Great Britain* or *Ireland*, or to His Majesty's Subjects in the said Province, Three-pence.

For every Gallon of Molasses and Syrups, which shall be imported or brought into the said Province, in any other Ships or Vessels, in which the same may be legally imported, Sixpence; and after those Rates for any greater or less Quantity of such Goods respectively.

Rates deemed Sterling Money of *Great Britain*.

And it is hereby further enacted by the Authority aforesaid, That the said Rates and Duties, charged by this Act, shall be deemed, and are hereby declared to be, Sterling Money of *Great Britain*, and shall be collected, recovered, and paid, to the Amount of the Value which such nominal Sums bear in *Great Britain* ; and that such Monies may be received and taken according to the Proportion and Value of Five Shillings and Sixpence the Ounce in Silver ; and that the said Duties, herein-before granted, shall be raised, levied, collected, paid, and recovered, in the same Manner and Form, and by such Rules, Ways, and Means, and under such Penalties and Forfeitures, except in such Cases where any Alteration is made by this Act, as any other Duties payable to His Majesty upon Goods imported into any *British* Colony or Plantation in *America* are or shall be raised, levied, collected, paid, and recovered, by any Act or Acts of Parliament, as fully and effectually, to all Intents and Purposes, as if the several Clauses, Powers, Directions, Penalties, and Forfeitures, relating thereto, were particularly repeated and again enacted in the Body of this present Act ; and that all the Monies that shall arise by the said Duties, (except the necessary Charges of raising, collecting, levying, recovering, answering, paying, and accounting for the same,) shall be paid by the Collector of His Majesty's Customs, into the Hands of His Majesty's Receiver-general in the said Province for the Time being, and shall be applied, in the first Place, in making a more certain and adequate Provision, towards defraying the Expences of the Administration of Justice, and of the Support of Civil Government, in the said Province ; and that the Lord High Treasurer, or Commissioners of His Majesty's Treasury, or any Three or more of them for the Time being, shall be, and is or are hereby impowered, from Time to Time, by any Warrant or Warrants under his or their Hand or Hands, to cause such Money to be applied out of the said Produce of the said Duties, towards defraying the said Expences ; and that the Residue of the said Duties shall remain and be reserved in the Hands of the said Receiver-general, for the future Disposition of Parliament.

how they are to be levied, &c.

to whom they are to be paid.

and how to be applied.

Regulations with respect to Goods brought into the Province chargeable with the Duties before mentioned.

And it is hereby further enacted by the Authority aforesaid, That if any Goods chargeable with any of the said Duties herein-before mentioned shall be brought into the said Province by Land Carriage, the same shall pass and be carried through the Port of *Saint John's* near the River *Sorrel* ; or if such Goods shall be brought into the said Province by any inland Navigation, other than upon the River *Saint Lawrence*, the same shall pass and be carried upon the said River *Sorrel*, by the said Port, and shall be there entered with, and the said respective Rates

and Duties paid for the same, to such Officer or Officers of His Majesty's Customs as shall be there appointed for that Purpose ; and if any such Goods coming by Land Carriage or inland Navigation, as aforesaid, shall pass by or beyond the said Place, before named, without Entry or Payment of the said Rates and Duties, or shall be brought into any Part of the said Province, by or through any other Place whatsoever, the said Goods shall be forfeited; and every Person who shall be assisting, or otherwise concerned in the bringing or removing such Goods, or to whose Hands the same shall come, knowing that they were brought or removed contrary to this Act, shall forfeit Treble the Value of such Goods, to be estimated and computed according to the best Price that each respective Commodity bears in the Town of *Quebec*, at the Time such Offence shall be committed ; and all the Horses, Cattle, Boats, Vessels and other Carriages whatsoever, made use of in the Removal, Carriage, or Conveyance of such Goods, shall also be forfeited and lost, and shall and may be seized by any Officer of His Majesty's Customs, and prosecuted, as herein-after mentioned.

Penalties and Forfeitures where to be prosecuted for, *etc.*

And it is hereby further enacted by the Authority aforesaid, That the said Penalties and Forfeitures by this Act inflicted, shall be sued for and prosecuted in any Court of Admiralty, or Vice Admiralty, having Jurisdiction within the said Province, and the same shall and may be recovered and divided in the same Manner and Form, and by the same Rules and Regulations, in all Respects, as other Penalties and Forfeitures for Offences against the Laws relating to the Customs and Trade of His Majesty's Colonies in *America* shall or may, by any Act or Acts of Parliament be sued for, prosecuted, recovered, and divided.

Any Person keeping a House of publick Entertainment to pay £1 16s. for a Licence.

Penalty of £10 for every Offence.

And be it further enacted by the Authority aforesaid, That there shall, from and after the Fifth Day of *April*, One thousand seven hundred and seventy-five, be raised, levied, collected, and paid, unto His Majesty's Receiver-general of the said Province, for the Use of His Majesty, His Heirs and Successors, a Duty of One Pound Sixteen Shillings, Sterling Money of *Great Britain*, for every Licence that shall be granted by the Governor, Lieutenant Governor, or Commander in Chief of the said Province, to any Person or Persons for keeping a House or any other Place of publick Entertainment, or for the retailing Wine, Brandy, Rum, or any other Spirituous Liquors, within the said Province ; and any Person keeping any such House or Place of Entertainment, or retailing any such Liquors without such Licence, shall forfeit and pay the Sum of Ten Pounds for every such Offence, upon Conviction thereof ; One Moiety to such Person as shall inform or prosecute for the same, and the other

Moiety shall be paid into the Hands of the Receiver-general of the Province, for the Use of His Majesty.

Not to make void *French* Revenues, *etc.*, reserved at the Conquest.

Provided always, That nothing herein contained shall extend, or be construed to extend, to discontinue, determine, or make void, any Part of the territorial or casual Revenues, Fines, Rents, or Profits whatsoever, which were reserved to, and belonged to, His most Christian Majesty, before and at the Time of the Conquest and Surrender thereof to His Majesty the King of *Great Britain*; but that the same, and every of them, shall remain and be continued to be levied, collected, and paid, in the same Manner as if this Act had never been made; any Thing therein contained to the Contrary notwithstanding.

In Suits brought pursuant to this Act.

And be it further enacted by the Authority aforesaid, That if any Action or Suit shall be commenced against any Person or Persons for any Thing done in pursuance of this Act, and if it shall appear to the Court or Judge where or before whom the same shall be tried, that such Action or Suit is brought for any Thing that was done in pursuance of and by the Authority of this Act, the Defendant or Defendants shall be indemnified and acquitted for the same; and if such Defendant or Defendants shall be so acquitted; or if the Plaintiff shall discontinue such Action or Suit, such Court or Judge shall award to the Defendant or Defendants Treble Costs.

Defendants to have Treble Costs.

Finis.

Anno Decimo Quinto

GEORGII III. REGIS.

Cap. XL.

An Act for amending and explaining an Act, passed in the Fourteenth Year of His Majesty's Reign, intituled, *An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of* Quebec, *in* America.

Preamble.

Clause in Act 14 *Geo. III.* recited.

Whereas by an Act, passed in the Fourteenth Year of His Majesty's Reign, (intituled, *An Act to establish a Fund towards further defraying the Charges of the Administration of Justice, and Support of the Civil Government within the Province of* Quebec, *in* America,) it is, amongst other Things, enacted, That if any Goods, chargeable with any of the Duties in the said Act mentioned, shall be brought into the said Province by Land Carriage, the same shall pass and be carried through the Port of *Saint John's*, near the River *Sorrel*; or if such Goods shall be brought into the said Province by any Inland Navigation, other than upon the River *Saint Lawrence* the same shall pass

and be carried upon the said River *Sorrel* by the said Port, and shall be there entered with and the said respective Rates and Duties paid for the same, to such Officer or Officers of His Majesty's Customs as shall be there appointed for that Purpose ; and if any such Goods coming by Land Carriage or Inland Navigation as aforesaid, shall pass by or beyond the said Place before named without Entry or Payment of the said Rates and Duties, or shall be brought into any Part of the said Province by or through any other Place whatsoever, the said Goods shall be forfeited; and every Person who shall be assisting, or otherwise concerned, in the bringing or removing such Goods, or to whose Hands the same shall come, knowing that they were brought or removed contrary to this Act, shall forfeit Treble the Value of such Goods ; to be estimated and computed according to the best Price that each respective Commodity bears in the Town of *Quebec* at the Time such Offence shall be committed ; and all the Horses, Cattle, Boats, Vessels, and other Carriages whatsoever, made use of in the Removal, Carriage, or Conveyance of such Goods, shall be forfeited and lost, and shall and may be seized by any Officer of His Majesty's Customs, and prosecuted as hereinafter mentioned: And whereas there is Reason to apprehend, that the Regulations and Restrictions contained in the said herein-before recited Clause, so far as they relate to the bringing of Rum, Brandy, or other Spirits, into the Province of *Quebec* by Land Carriage, may, without further Explanation, operate to the Prejudice and Disadvantage of the Commerce carried on with the *Indians* in the upper or interior Parts of the said Province, we, Your Majesty's most dutiful and loyal Subjects, the Commons of *Great Britain*, in Parliament assembled, do most humbly beseech Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall and may be lawful to and for all His Majesty's Subjects freely to bring, carry or convey, by Land Carriage, or Inland Navigation, into any Parts of the Province of *Quebec*, not heretofore comprehended within the Limits thereof by His Majesty's Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three, any Quantity of Rum, Brandy, or other Spirits, any Thing contained in the before-recited Act of Parliament to the contrary thereof in any-wise notwithstanding.

His Majesty's Subjects may bring, by Land or Inland Navigation, into any Parts of *Quebec*, not heretofore comprehended in the Royal Proclamation of *Oct.* 7, 1763, any Quantity of Rum, Brandy, *etc.*

FINIS.

END OF PART I.

A
PARTICULAR SURVEY
OF THE
ISLES OF MONTREAL
THE CITY
OF
QUEBEC.
RIVER St LAURENCE
PLAN
OF
MONTREAL
VILLEMARD
LABRADOR
GULF OF
St LAURENCE
A
NEW MAP
OF THE
PROVINCE OF QUEBEC
THE ROYAL PROCLAMATION
THE FRENCH SURVEYS
CAPTAIN CARVER
OFFICERS